

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JONATHAN V. ADAP, DEFENDANT-APPELLANT.

G.R. No. 66237. September 12, 1990

Ponente: FELICIANO, J.

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FELICIANO, J.:

Jonathan V. Adap appeals from the decision of the Regional Trial Court of the First Judicial Region, Branch 44 of Dagupan City in Criminal Case No. CCC-III-0633, convicting him of violation of Section 4 of Republic Act No. 6425, as amended by Presidential Decree No. 1675, known as the Dangerous Drugs Act, and sentencing him to suffer life imprisonment and to pay, in addition to costs, a fine of P25,000.00.

In an information dated 8 March 1982, the First Assistant City Fiscal of Dagupan City charged appellant with violation of the Dangerous Drugs Act, as follows:

"That on or about the 6th day of March, 1982, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused JONATHAN V. ADAP, without authority of law, did then and there, wilfully, unlawfully and criminally, sell dried 'Marijuana' wrapped in six (6) pieces of aluminum foil to a Police informer in the amount of THREE HUNDRED PESOS (P300.00), Philippine currency, without authority to sell the same."¹

After arraignment and trial, the trial court in due time rendered a decision on 27 September 1983 finding appellant guilty of the crime charged. The dispositive portion states:

"WHEREFORE, the Court finds accused Jonathan V. Adap guilty beyond reasonable doubt of the crime of VIOLATION OF SEC. 4, Republic Act Number 6425, as amended by Presidential Decree Number 1675, otherwise known as the Dangerous Drug Act, and pursuant to law hereby SENTENCES accused Jonathan V. Adap, to suffer LIFE IMPRISONMENT (Reclusion Perpetua) and to pay a fine of TWENTY-FIVE THOUSAND PESOS (P25,000.00) and to pay the costs.

Being a detention prisoner, the accused shall be credited [with] the entire period of his preventive imprisonment in the service of his sentence.

Pursuant to Section 20, Article IV of Republic Act No. 6425, as amended, the flowering tops wrapped separately together with rolling papers in eight (8) foils of different sizes, are hereby ordered confiscated and forfeited in favor of the government, the same to be turned over to the Dangerous Drugs Board Custodian for proper disposal without delay.

SO ORDERED."²

The accused-appellant argues that the trial court erred in the following respects:

- I The trial court erred in finding the accused guilty despite the absence of proof beyond reasonable doubt;
- II the trial court erred in convicting appellant on the basis of presumptions and conjectures;

III the trial court erred in convicting appellant relying solely on self-serving and weak evidence of the prosecution.

The Court will address the issues together.

From the record, the facts of the case may be collated as follows:

Very early in March 1982, Pfc. Bernardo Gonzales, Chief of the Anti-Narcotics Unit of the Dagupan City Police Force, was informed by his sources that appellant was involved in selling marijuana somewhere in A.B. Fernandez Avenue, East, Dagupan City. Hence, on 5 March 1982, Pfc. Gonzales instructed Patrolmen Norman Apercho and Reynaldo Orprecio to place the appellant under surveillance. Apercho and Orprecio proceeded to A.B. Fernandez Avenue and there they were informed that appellant had been allegedly selling marijuana leaves to drug addicts in the house of one Cordel Sison in Bani District, Dagupan City.³ They went back to their headquarters and conveyed that information to Pfc. Gonzales.

On the same day, Pfc. Gonzales sent a civilian informer to try to buy marijuana from appellant at the house of Cordel Sison. For this purpose, Pfc. Gonzales gave to the informer the amount of P50.00. At the house of Cordel Sison, the informer was able to purchase, allegedly from appellant, a package of marijuana wrapped in an aluminum foil.⁴ The informer went back to Police Headquarters and gave the marijuana to Pfc. Gonzales.

The next day, on 6 March 1982, at around 10:00 o'clock in the morning, Pfc. Gonzales again instructed the informer to buy some marijuana from the appellant. This time Pfc. Gonzales gave to the informer the amount of P100.00 with which to buy the same.⁵ The informer once more went to the Cordel Sison house and there he bought two (2) packages of dried marijuana leaves wrapped in aluminum foil allegedly from the appellant and he presented these to Pfc. Gonzales upon his return to Police Headquarters. Pfc. Gonzales in turn showed the same to Lt. P.B. Landingin, Chief of the Intelligence Unit. The two police officers decided then to conduct a "buy-bust" operation to entrap the accused. Consequently, at around 11:00 o'clock of the same day, Pfc. Gonzales gave to the informer P300.00 in three (3) marked one hundred peso bills to buy dried marijuana leaves from the appellant.⁶ The bills bore serial numbers 365681, BQ31724, and BJ194215 which serial numbers were listed upon the direction of Pfc. Gonzales on a piece of paper and left with the Desk Officer of the police precinct. The police team of four (4) officers and the informer proceeded to the house of Cordel Sison arriving there at around 11:25 a.m. The members of the police team positioned themselves inconspicuously around the Cordel Sison house.⁷ Pfc. Gonzales was only about two (2) meters away from the informer, while the others (Lt. Landingin and Pat. Orprecio and Apercho) were further away.⁸ The informer entered the premises of the house, approached and talked to appellant. Pfc. Gonzales, who was at the time intently observing the transaction, saw the appellant deliver to the informer six (6) packages wrapped in aluminum foil and the informer hand the marked money to appellant. Thereupon, Pfc. Gonzales emerged from his hiding place, and arrested appellant. The six (6) packages were recovered from the informer while the three (3) marked P100.00 peso bills were found in appellant's pocket.⁹ Pfc. Gonzales gave the six (6) packages to Pat. Apercho who brought them and the appellant to Police Headquarters.¹⁰

At headquarters, Pat. Apercho turned over the confiscated packages to Lt. Laureano Reyes of the Dagupan City Police who in turn delivered them to Atty. Cesar de Leon, Head of the National Bureau of Investigation (NBI) Regional Office of Dagupan City. The latter brought the same to the NBI office in Manila for laboratory examination.¹¹

Florencia Fajardo, Supervising Forensic Chemist of the NBI declared in her report that the eight (8) packages of dried leaves wrapped in aluminum foil which were endorsed by Lt. Reyes of the Dagupan City police to Atty. de Leon of the NBI Regional Office of Dagupan City, were packages of dried marijuana leaves, having subjected

these to microscopic, chemical and chromatographic examination.¹²

In his defense, appellant denied ownership of the packages of marijuana leaves. He claimed that he was not at the house of Cordel Sison but was looking for a job as a houseboy somewhere in Dawel, Dagupan City, on the day of the alleged sale of marijuana leaves. He contended that while doing so, two Anti-Narcotics agents who were then in plain clothes approached him and offered him some marijuana. When he refused the offer, they promptly arrested him and brought him to the City Jail.

At the trial, Pfc. Bernardo Gonzales was firm and categorical in identifying the accused as the man he saw handing over to the civilian informer six (6) packages of marijuana leaves wrapped in aluminum foil--

FISCAL VICTORIO

"Q: Now, you said that you deployed in the premises of the house of Cordel Sison from where accused Jonathan Adap was allegedly selling marijuana, specifically in what place did you deploy yourselves?

A: I was just deployed at around two meters away from the two, sir, from CI and Jonathan Adap.

COURT

Q: How many meters?

A: Only two meters, sir.

Q: From?

A: From Jonathan Adap and my informer.

Q: When Adap sold the eight (8) aluminum foils?

A: Six, sir.

Q: Six then two, that is eight?

A: Yes, your Honor.

FISCAL VICTORIO

Your Honor, at 10:30 the informer was able to buy two and then at 11:00 A.M six.

COURT

So 9 foils - one on March 5, eight on March 6.

Q: So, during that time you were only two meters away from Adap and the informer?

A: Yes, sir.

Q: Where did you situate yourself?

A: Just at the back of the fence of Cordel Sison.

X.X.X. X.X.X. X.X.X.

FISCAL VICTORIO

Q: What about your other companions Pat. Reynaldo Orprecio and Norman Aperoch and Lt. Landingin, where did they stay?

A: Lt. Landingin was near Reycal Disco, sir, at around 50 meters away from Adap and the informer, sir; Orprecio was around 5 meters, sir, just behind them, sir, and Norman Apercho was around the same 5 meters 5 behind them on the other side.

Q: You said that you were just about 2 meters away from where your informer and accused Jonathan Adap were making the transaction, sale of marijuana, what did you see that Jonathan Adap do?

A: He handed the six (6) aluminum foils of marijuana wrapped in a newspaper, sir.

Q: What about your informer, what did he do?

A: He handed the money to Adap, sir, the three hundred pesos.

COURT

Q: How about the transaction on March 5, did you see Adap hand the marijuana?

A: No, sir.

Q: How about the transaction at 10:30 A.M March 6, did you see Adap hand marijuana to your informer?

A: No, sir, we just waited for him.

Q: But you saw the six which your informer paid three hundred pesos?

A: Yes, sir.

Q: When you saw the accused handed six (6) aluminum wrapped marijuana, containing the marijuana and your informer handed the money to Adap, what did you do?

A: I came out from the place I was deployed and arrested Jonathan Adap, sir, and got the money from his pocket, sir, the three hundred pesos.

Q: You are referring to the three one hundred peso bills already marked as C, C-1 and C-2 and which the Fiscal has informed you borrowed -- who was that?

A: Vicente Lim, sir.

Q: How about the six foils of marijuana, where did you - - -?

A: I also handed the 6 aluminum foils wrapped in the newspaper to Norman Apercho, sir, and when I got the marijuana from my informer, I handed it to Norman Apercho, I got the money from the pocket of Jonathan Adap, the three hundred pesos, sir.

Q: Did Adap resist?

A: Yes, sir.

Q: What did he do?

A: He said nobody will watch the house because nobody will bring it to the station.

Q: What did Adap tell you, if any, when you got the three hundred pesos money from him?

A: It old him he is arrested for selling marijuana to our informer, sir.

Q: What was his answer, if any?

A: He did not say anything, sir."13

Pfc. Gonzales' testimony was corroborated by the equally definite statements of Pat. Reynaldo Orprecio who declared that:

"Q: Do you know the accused in this case Jonathan Adap?

A: Yes, sir.

Q: If he is in the court room will you be able to identify him?

A: Yes, sir.

Q: Will you please identify him?

A: He is there.

INTERPRETER:

Witness points to a person who when asked his name; [says] Jonathan Adap.

FISCAL VICTORIO:

X.X.X. X.X.X. X.X.X.

Q: You said that one week before March 6, 1982 you conducted surveillance on the activities of Jonathan Adap, will you please tell this Honorable Court, what did you see or find as the activities of Jonathan Adap?

A: We found out that Jonathan Adap was selling dried marijuana leaves.

COURT:

Q: To whom?

A: Top suspected drug addicts, sir.

FISCAL VICTORIO:

Q: Where was Jonathan Adap residing then?

A: He was living in the house of Mr. Cordel Sison in Bani Street, Dagupan City, sir.

Q: Who is this Cordel Sison?

A: I have learned that he is from Manaoag, Pangasinan.

Q: Where did you see accused Jonathan Adap sell suspected marijuana stuffs?

A: At the house of Cordel Sison, sir.

Q: On March 6, 1982 at about 10:30 AM, do you remember having given a mission to a certain informer?

A: Yes, sir.

Q: What was that mission about?

A: We sent him to buy marijuana from Jonathan Adap if Jonathan Adap is really selling marijuana leaves.

Q: You said we, who were your companions then?

A: Pfc. Bernardo Gonzales our in-charge in the Anti-Narcotics Unit and Norman Apercho.

Q: Specifically, what did you tell that informer of yours on March 6, 1982 at about 10:30 AM?

A: We have given him money to buy marijuana leaves in order to confirm that Jonathan Adap is really selling.

Q: From whom was he supposed to buy marijuana leaves?

A: From the accused Jonathan Adap, sir.

Q: How much did you give your informer?

A: We gave him P100.00 sir.

Q: Was your informer able to buy marijuana leaves from Jonathan Adap?

A: Yes, sir.

Q: He was able to buy two aluminum foil of dried marijuana leaves, did you examine the stuffs your informer bought from the accused Jonathan Adap?

A: Yes, sir.

Q: What was your findings.

A: It was positive for dried marijuana leaves.

Q: What did you do next?

A: We again gave P300.00 to our informer.

Q: When did you give your informer that P300.00?

A: March 6, 1982 at 11:30 AM.

Q: Before you give that P300.00, what did you do with the money?

A: We got the serial number of the money.

Q: Who actually get the serial number of the money?

A: It was Norman Aperocho.

Q: What did you tell your informer when you gave him the P300.00?

A: We adviced him to get the evidence because we have already bought two aluminum foil, so we expect our informer to buy 6 aluminum foil.

Q: Before you said your informer of yours was sent again to buy marijuana leaves, what did you do and your companions?

A: We deployed ourselves near the house of Cordel Sison.

Q: Who were your companions in deploying in the house of Cordel Sison?

A: We have our Intelligence Branch Officer Fedro Landingin, our officer-in-charge in the Anti-Narcotics Unit Bernardo Gonzales, Norman Aperocho and I.

Q: About what time did you arrive within the vicinity of Cordes Sison?

A: Actually we have already deployed at 11:25 A.M.

Q: About what time did your informer went to that house to buy marijuana leaves?

A: 11:30 AM, sir.

Q: While your informer is buying marijuana leaves from the accused Jonathan Adap, what did you do?

A: We immediately apprehended them in the act of selling while Jonathan Adap is on the act of selling to our informer, sir.

Q: About how many dried marijuana leaves?

A: P300.00 worth of marijuana leaves, sir, it was wrapped in an aluminum foil.

Q: How many foil?

A: Six (6) aluminum foil, sir.

Q: What did you do to accused Jonathan Adap when he delivered the marijuana leaves in an aluminum foil to your informer?

A: We arrested them and brought them to our office, sir.

Q: Whom did you arrest?

A: Jonathan Adap and our informer.

Q: What did you recover from Jonathan Adap?

A: We found the P300.00 marked in his pocket.

Q: Where did you bring Jonathan Adap?

A: We brought him to the police station for investigation.

Q: What about the marijuana leaves which you recovered from your informer which bought from the accused Jonathan Adap?

A: We brought it to the police station, sir."¹⁵ (Underscoring supplied)

The trial court found the testimonies of witnesses Gonzales and Orprecio as positive, credible and reliable. We find no reason to disagree with the findings of the trial court. It is firmly settled that "the findings of the trial court as to the credibility of the witnesses are to be given great weight and a high degree of respect by the Appellate Court".¹⁶ There is nothing in the record to show that the prosecution witnesses were moved by any improper motive falsely to accuse the appellant of a crime which carries a very heavy penalty --life imprisonment.

The fact that the packages of dried leaves confiscated and taken from appellant were dried marijuana leaves was properly established by the testimony of Florencia Fajardo a Forensic Chemist of the NBI in Manila. She declared in court that her microscopic, chemical, and chromatographic examinations of the packages forwarded to the NBI Manila by the NBI Regional Office of Dagupan City showed that the contents of the eight (8) packages wrapped in aluminum foil consisted of marijuana.

The statement of the prosecution witness Pfc. Gonzales that he did not personally see appellant sell the marijuana leaves to the informer on 5 March 1982 does not impair his credibility as a witness. It must be pointed out that the appellant was not charged with selling marijuana leaves on 5 March 1982, but with having sold such on 6 March 1982. Pfc. Gonzales' testimony that on 6 March 1982, he witnessed the appellant sell to the informer six (6) packages of marijuana leaves wrapped in aluminum foil is set out above. In fact, it was he who arrested the appellant immediately after the illegal transaction was consummated.¹⁷

The contention of the appellant that the Anti-Narcotics Agents who had apprehended him merely assumed that the confiscated items were marijuana, is without merit.

Appellant was unable to refute the testimony that the items taken or confiscated from him by the Anti-Narcotics Agents on 6 March 1982 were included in the eight (8) packages wrapped in aluminum foil which were transmitted by the NBI Regional Office to the Manila NBI Office for laboratory examination. Appellant, in his defense, denied that he had sold the six (6) aluminum foils of marijuana leaves just before his arrest. He insisted that the marijuana leaves had been "planted" on him by the Anti-Narcotics team.

The trial court considered appellant's defense as unworthy of belief. His bare denials cannot prevail over the affirmative testimonies of the prosecution witnesses.¹⁸ The trial court said:

"Accused has not presented evidence which would show the case filed against him is fabricated. On this score, the declaration of Jonathan V. Adap is clear that Pfc. Gonzales and Pat. Orprecio have no grudge against him. Neither did he have any grudge against them. (TSN, 10 June 1983, p. 46)

The mass of evidence bolsters a pronouncement of guilt beyond reasonable doubt. The accused has not adduced a single piece of evidence which can extricate himself from the stigma of criminal convictions."¹⁹

Again, we have no basis for disagreeing with the trial court's evaluation of the evidence.

WHEREFORE, the decision of the trial court finding Jonathan V. Adap guilty beyond reasonable doubt of violating Section 4, Republic Act No. 6425, as amended by the Presidential Decree No. 1675, known as the Dangerous Drugs Act, is hereby AFFIRMED. Costs against appellant.

SO ORDERED.

Gutierrez, Jr., Bidin, and Cortes, JJ., concur.
Fernan, CJ., (Chairman), on leave.

1 Rollo, p. 3.

2 Id., pp. 10-11.

3 TSN, 4 May 1982, pp. 3-5; 14-17.

4 TSN, 4 May 1982, p. 18.

5 TSN, 3 May 1982, pp. 5-6.

6 TSN, 4 May 1982, pp. 19-24.

7 Id., pp. 6-7, 21-22.

8 Id., 26-27.

9 Id., p. 28.

10 Id., p. 30.

11 TSN, 8 November 1982 pp. 27-28.

12 Original Record, p. 40.

13 TSN, 4 May 1982, pp. 25-30.

15 TSN, 3 May 1982, pp. 3-16.

16 *People of the Philippines v. Sarol*, 139 SCRA 125 (1985); *People of the Philippines v. Valdez*, 159 SCRA 152 (1988).

17 TSN, 4 May 1985, pp. 27-30.

18 *People of the Philippines v. Cruz*, 3 SCRA 217 (1961).

19 Rollo, p. 10; Decision. p. 7.

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