

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
FRANCIS DE GUZMAN Y GALANG, ACCUSED, MANUEL DURIAS Y
ASTRERO, ROBERT LIZARDO Y KANGA, ALIAS ROBERT RIZALDO,
ISABELO TALLED...**

G.R. No. 68951. June 16, 1988

Ponente: CRUZ, J.

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CRUZ, J.:

From Santiago, Isabela, five men started their trip together in a jeep on January 4, 1984. Their destination was Quezon City where, unknown to them at the time, the law would be waiting for them. The encounter happened the following evening, when NARCOM agents arrested all of them in a "buy-bust" operation conducted with the help of an informer. Eventually brought to trial, all of them were convicted.[1] The four who were sentenced to life imprisonment are now before us on appeal of their conviction.

Of these four, one has since withdrawn his appeal and in effect confessed his guilt.[2] The other three continue to protest their innocence and ask for a reversal of the judgment of the trial court on the ground that their guilt has not been sufficiently established. The fifth was a minor at the time of the alleged crime and was meted out a lighter penalty which has been suspended.[3]

The five accused were: Manuel Durias the owner of the jeep; Isabelo Talledo, his driver, Francis de Guzman; who supposedly acted as conductor; Robert Lizardo, who claims to have contracted with Durias for the trip; and his companion, Arsenio Sabawil, the minor.

As found by the trial court,[4] the accused met with CIC Cesar Dalonos in the evening of January 5, 1984, on West Avenue, Quezon City, to negotiate the sale to him of three kilos of marijuana. Dalonos who was posing as an interested buyer, was accompanied by Jessie Gambito, the informer, who had introduced the former to De Guzman. De Guzman and Durias were the spokesmen for the group, the other three being in the jeep nearby. After agreeing on the price and being assured of payment, Durias signaled the three to get the marijuana. Talledo drove off with his two companions and they returned after half an hour with the marijuana, which Lizardo and Sabawil handed to Dalonos. The other narcotics agents who had strategically posted themselves and were covertly watching the transaction then pounced on the five men and arrested them.[5]

In his brief, Lizardo focuses on the argument that the prosecution has failed to prove its case and that he is entitled to the constitutional presumption of innocence. There is no evidence, he says, linking the marijuana examined by the PC crime laboratory with him nor has it been proved that he had no license to possess such narcotic.[6] This argument does not deserve further comment for its obvious paucity. His claim that the court erred in finding there was a conspiracy among the co-accused, which has a little more substance, will be dealt with presently.

Durias and Talledo also deny the finding of conspiracy, but with more vigor than Lizardo. These two, in fact, have distanced themselves from the other defendants, claiming a different defense, beginning with the purpose of

their trip to Quezon City. The two insist they were unaware of the marijuana carried by Lizardo and Sabawil and had nothing to do with their transaction with Dalonos. According to Durias, Lizardo and Sabawil had hired his jeep in Isabela to go to Quezon City and he agreed to charge them P500.00 provided he could pick up other passengers.[7] His version of what happened in the evening of January 5, 1984, is that he and his driver were waiting in front of the disco pub to which Lizardo had gone to get the balance of the fare he owed when upon his return all of them were grabbed by the narcotics agents.[8] He also denies that Lizardo and Sabawil had loaded vegetables in his jeep, arguing that these would have filled his vehicle and prevented him from taking other passengers.

The fact that his and Talledo's defense does not jibe with that of the other defendants, he stresses, only shows that there was no conspiracy among them. If there were, all five of them would have had a similar story and a common defense.

This would not necessarily follow as the conspiracy was to commit the crime, not to defend themselves. It is not unlikely that although they were one in the plan to sell the marijuana, they decided to take different tracks in defending themselves and adopt divergent versions of their respective roles in the incident in question. After their arrest, it must have been every one for himself, with each one trying to disentangle himself from the common snare in which they were enmeshed.

In any event, the testimony of Durias and Talledo does have many loose ends and seems to suffer from the weakness and inconsistencies they would impute to the evidence of the prosecution. Their version of the trip from Isabela does not seem to be convincing, nor is their story of the events that happened after their arrival in Quezon City any more believable.

Durias and Talledo ridicule the claim of the other defendants that they had loaded vegetables in the jeep, stressing that, considering their quantity as described by Lizardo, they would have occupied the whole vehicle and prevented him from taking other passengers. However, in what he called a "Prayer for Acquittal," which he filed with the Court on July 23, 1986, Durias contradicted himself by declaring *inter alia* that his jeep had been hired for P500.00 "to transport the vegetables in Manila" and by referring to "the bulk of the vegetables that was (sic) loaded in his said passenger jeepney." [9]

Moreover, if Lizardo was not loading any vegetables but merely carrying his usual pack, why were he and Sabawil charged a higher fare of P500.00? Durias testified that, of the twelve other passengers who also took the trip from Isabela, two alighted in Cabanatuan City, and were each charged P40.00.[10] If Lizardo and Sabawil were ordinary passengers, as Durias insists, they would have been charged at a proportionate rate, may be double the fare to Cabanatuan City, perhaps even P100 each, but certainly not P500.00 for the two of them. If, as Durias claims, he had not known the two before they met on January 4, 1984, the latter would have objected to the exorbitant fare of P250.00 each and would have taken other transportation for a more reasonable cost.

Furthermore, if the two were really strangers and mere passengers, why did they not, like the others, alight at the Pantranco Terminal in Cubao, where the trip was supposed to end? Why is it that in their case, a special trip had to be made to take them to West Avenue in Quezon City and, before that, to the house of Talledo's sister in Guadalupe, Makati, where they were served free meals and all of them rested for several hours?[11]

In their common brief, Durias and Talledo would have us believe that they had fed their two passengers in keeping with traditional Filipino hospitality. This virtue seems to have been overdone in this case if we are to also believe that they had met the two passengers only the day before. It is also difficult to believe that when the five of them went to West Avenue, it was to enable Lizardo and Sabawil to get the alleged balance of their fare in the disco house so they could pay Durias. The purpose, as the evidence shows, was different.

The Court finds that there was really no agreement between Durias and the alleged passengers for a special fare of P500.00. On the contrary, it is clear that they had planned in Isabela to take the marijuana to Metro Manila and there sell it, with the five of them sharing in the proceeds. The assertion of Durias and Talledo that they were unaware of the marijuana carried by Lizardo and Sabawil is incredible in the light of their conduct after their arrival at Cubao and particularly during the "buy-bust" operation as described by Dalonos and the other narcotics agents who testified at the trial.[12]

The posture of Lizardo is no less incredible. The best argument against his story is that given by Durias and Talledo, to wit, that 480 kilos of assorted vegetables, including cabbages contained in three sacks and one sack of beans and four bags of potatoes, could hardly be accommodated in the jeep, along with the five of them.[13] Moreover, if some of the vegetables were sold that morning of January 5, 1984, as Lizardo alleges, why could he and Sabawil not have paid Durias with the proceeds instead of asking him to wait until 11 o'clock that night (which he willingly did) so he could collect the full fare of P500.00? Lizardo and Sabawil had already received that amount from the partial sale of their vegetables,[14] if they are to be believed, and so had enough money to pay their alleged fare in full as early as that morning.

The trial court correctly assessed the evidence in holding that, as early as from the start of their trip in Isabela, the five defendants had already entered into an agreement for the sale of the marijuana in Metro Manila. This explains why the five of them stuck together after arriving in Cubao (although the other passengers all alighted and went their respective ways), ate and rested in the house of Talledo's sister, and waited until 10 o'clock in the evening to go to the pub house in West Avenue for their appointment with the poseur-buyer and the informer.

De Guzman has admitted as much with the withdrawal of his appeal and his formal statement that "after meditating on the incident which led to my conviction and after having consulted my conscience, I am truly convinced that the sentence imposed upon me is correct and I am fully satisfied." [15] Durias and Talledo base their defense mainly on denial of their knowledge of the existence of the marijuana and their involvement in their sale. Lizardo for his part merely invokes the constitutional presumption of innocence (quoting verbatim from a textbook without attribution)[16] but without arguing why the prosecution should be discredited even if, as he impliedly admits, his defense is weak.

The constitutional presumption of innocence is not available in the case at bar not because the defense is weak but because the prosecution is strong. The prosecution is strong enough to overcome the presumption but the defense is not strong enough to overcome the prosecution. It is true that there are certain inconsistencies in the testimony of the prosecution witnesses but these are only minor lapses that do not detract from the veracity of their narration of the manner in which the crime was committed in the evening of January 5, 1984. The evidence offered against all five of the defendants has proved to the point of moral certainty their complicity and active participation in the sale of the three kilos of marijuana in violation of the Dangerous Drugs Act.

As conspirators, all the accused-appellants are equally guilty, on the principle that the act of one is the act of all.[17] And even if they were not regarded as conspirators, they would still be guilty as principals by direct participation, as the Solicitor General correctly points out, for they were involved directly in the transporting, possession and sale of the three kilos of marijuana.[18]

They were therefore all properly sentenced to reclusion perpetua with all the accessory penalties and to pay a fine of P20,000.00 each.[19]

Every one must help in the campaign against drug addiction. We must relentlessly pursue all lawful efforts to bring to justice those who would prey on the weakness of the people, especially the youth, by tantalizing them with the momentary hallucinations and fantasies induced by the prohibited narcotics that have already made

alarming inroads in our society. The price the victims pay for these drugs is not measured in pesos and centavos only but in terms of promises betrayed, ambitions derailed, purposes gone wayward and lives needlessly lost.

WHEREFORE, the judgment appealed from is AFFIRMED in toto without pronouncement as to costs.

SO ORDERED.

Narvasa (Chairman), Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] Decision, p. 11.

[2] Brief for Appellants Durias and Talledo, p. 52.

[3] Decision, p. 11.

[4] Judge Antonio P. Solano, Regional Trial Court, National Capital Judicial Region, Branch LXXXVI, Quezon City.

[5] Decision, p. 3.

[6] Rollo, pp. 58-59.

[7] Brief for Appellants Durias and Talledo, p. 5.

[8] Ibid., p. 7.

[9] Rollo, p. 114.

[10] Brief for Appellants Durias and Talledo, p. 6.

[11] Ibid.

[12] Lt. Benito C. Estipona. Lt. Lowena Layador, and Cpl. Crispin Marquez.

[13] Rollo, p. 55.

[14] Ibid.

[15] Id., p. 71.

[16] At page 6, from Cruz, Constitutional Law. 1984 ed.

[17] People v. Rondina, 149 SCRA 128; People v. Rojas, 147 SCRA 169; People v. Gapasin, 145 SCRA 178; People v. Arhis, 144 SCRA 687; People v. Siyoh, 141 SCRA 356; People v. Beltran, 138 SCRA 521.

[18] Dangerous Drugs Act, Article II. Section 4.

[19] Ibid.: Sale, Administration, Delivery, Distribution and Transportation of Prohibited Drugs. — The penalty of life imprisonment to death and a fine ranging from P20,000.00 to P30,000.00 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.

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