

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMEO POLICARPIO Y MIRANDA, ACCUSED-APPELLANT.

G.R. No. 69844. February 23, 1988

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

Convicted of violation of Section 4 Art. II of Republic Act No. 6425 as amended in a decision of the Regional Trial Court of Rizal, the dispositive part of which reading as follows:

"WHEREFORE, finding the accused guilty beyond a reasonable doubt for Violation of Section 4. Article II of Republic Act 6425 as amended, the court hereby sentenced the accused to suffer a penalty of CADENA PERPETUA and to pay a fine of P30,000.00 without subsidiary imprisonment in case of insolvency with costs against the accused.

The accused shall be entitled to the full term of his preventive imprisonment pursuant to Article 29 of the Revised Penal Code as amended by Republic Act 6127, provided he abides by the rules imposed upon convicted prisoners, otherwise, he shall only be entitled to 4/5."

accused Romeo Policarpio y Miranda now interposed this appeal to this Court alleging that the trial court committed the following assigned errors:

"I

THE LOWER COURT SERIOUSLY ERRED IN NOT FINDING THAT CONSTITUTIONAL RIGHTS OF THE ACCUSED-APPELLANT WERE VIOLATED BY THE APPREHENDING NARCOTICS AGENTS.

II

THE LOWER COURT ERRED IN FINDING THAT ACCUSED-APPELLANT WAS APPREHENDED IN THE ACT OF SELLING MARIJUANA, OR IMMEDIATELY THEREAFTER, AND IN FAILING TO FIND THAT HE WAS CHASED AND CAUGHT IN A RICEFIELD BETWEEN SITIOS BAGONG BAYAN AND SAN JUAN AT DARANGAN, BINANGONAN, RIZAL.

III

THE LOWER COURT ERRED IN FAILING TO GIVE CREDENCE TO THE TESTIMONY OF ACCUSED-APPELLANT AND HIS WITNESS ISIDRO PARALEJAS.

IV

THE LOWER COURT ERRED IN FINDING ACCUSED-APPELLANT GUILTY OF VIOLATING THE PROVISIONS OF SECTION 4, ARTICLE II OF REPUBLIC ACT 6425 AS AMENDED.

The facts of the case as found by the court a quo are as follows:

On June 16, 1984 at 2:00 o'clock in the afternoon, operatives of the Narcotics Command, Camp Crame headed by P/Capt. Gabriel Paile swooped down at Bagong Bayan, Kalawaan, Darangan, Binangonan, Rizal, after

receiving an information that the accused alias Dupong is engaged in the sale and distribution of Marijuana and other prohibited drugs and tagged as the main source at the area. The team was organized earlier by Lt. Col. Manuel T. Raval, Commanding officer, 13th NRU Narcotics Command and was dispatched to the target area to entrap the accused Romeo Policarpio, accordingly. Pat. Mangila will pose as a buyer and was handed the marked P20.00 bill (Exhibit "I" to "I-3") with which to buy the stuff before they proceeded to the area of operation. At about 2:00 p.m. same date, the operatives arrived at Bagong Bayan, Kalawaan, Darangan, Binangonan, Rizal. Leaving their vehicle at a distance, they posted themselves at strategic places. The poseur buyer Pat. Enrico Mangila, together with the informant, looked for the accused and at about 5:00 o'clock in the afternoon of same date Pat. Mangila and the informant were able to locate the accused in front of his house. Thereafter, Pat. Mangila was introduced by the informant to the accused as the person who needs some marijuana leaves, and after they had talked with the accused for a while, the accused gave Pat. Mangila two small plastic bags containing dried marijuana leaves and rolling paper (Exhibit "B" to "B-4"). In turn Pat. Mangila gave to the accused the marked P20.00 bill (Exhibit "I" to "I-3"). As previously arranged, Pat. Mangila scratched his head and his companions, Pfc. Basco and Mendiola grabbed and arrested the accused. From the accused was confiscated the marked P20.00 bill on his front pocket. After the arrest of the accused, the latter led his captors to his house and the operatives seized another six (6) small plastic bags of dried marijuana leaves together with rolling papers contained in a bigger plastic bag marked Tie Tae Toe (Exhibit "C" to "C-6") placed on a top of the refrigerator at the kitchen of their house. Arrested with the accused is a certain person Rogelio Policarpio, who turned out to be his cousin and who was earlier convicted by this Court for Possession of Dried Marijuana Leaves in Criminal Case No. 273-B of this Court. The accused and the confiscated prohibited drugs were brought to Camp Crame and the Marijuana leaves were turned over to the PCCL for examination (Exhibit "D"). The PCCL conducted examination over the evidence thus (sic) over, and rendered its Chemistry Report with the finding that the evidence thus examined gave a positive result for the test for marijuana (Exhibit "A" to "A-3"). At the PC Headquarters, the accused Romeo Policarpio signed a bond paper acknowledging that the six (6) small plastic bags of marijuana leaves were confiscated from him (Exhibit "G" to "G-2"). He likewise signed a document acknowledging the fact that the marked P20.00 bill was confiscated from him (Exhibit "F" to "F-1"). Similarly, accused signed a sworn statement where he opted not to give statement until he is represented by a counsel (Exhibit "J" to "J-2").

Under the first assigned error appellant claims that Exhibit G which is a receipt signed by appellant acknowledging that six (6) small plastic bags of marijuana leaves were confiscated from him and Exhibit F a receipt signed by appellant acknowledging that the P20.00 bill involved in the purchase of the marijuana leaves was confiscated from him are not admissible in evidence as they were taken in violation of his constitutional right.

What the records show is that appellant was informed of his constitutional right to be silent and that he may refuse to give a statement which maybe used against him, that is why he refused to give such a written statement unless it is made in the presence of his lawyer as shown by the paper he signed to this effect.[1] However, he was made to acknowledge that the six (6) small plastic bags of dried marijuana leaves were confiscated from him by signing a receipt[2] and to sign a receipt for the P20.00 bill as purchase price of the dried marijuana leaves he sold to Pat. Mangila.[3]

Obviously the appellant was the victim of a clever ruse to make him sign these alleged receipts which in effect are extra-judicial confessions of the commission of the offense. Indeed it is unusual for appellant to be made to sign receipts for what were taken from him. It is the police officers who confiscated the same who should have signed such receipts. No doubt this is a violation of the constitutional right of appellant to remain silent whereby he was made to admit the commission of the offense without informing him of his right.[4] Such a confession obtained in violation of the Constitution is inadmissible in evidence.

The second, third, and fourth assigned errors are factual in nature wherein the appellant raises the question of credibility of the witnesses and reiterates his defense denying that he had been apprehended in the act of selling

marijuana and receiving P20.00 as payment thereof. He alleges that he was then at a mahjong session and that he was pursued by the police when they came.

The too-well known rule in this jurisdiction is that the findings of facts of the trial court are conclusive in this proceeding and will not be disturbed unless some facts or circumstances may have been overlooked that may otherwise affect the result of the case. The Court finds no reason to depart from this rule in the present case.

While the Court now holds that the receipts for the six (6) plastic bags of marijuana and the P20.00 bill which appellant was made to sign^[5] are not admissible in evidence against him, nevertheless there is ample evidence in the record other than these receipts to establish the commission of the offense by the appellant. Prosecution witnesses Pat. Enrico Mangila and Pfc Jose Basco were present and categorically attested to the fact that the appellant sold two (2) tea bags of dried marijuana leaves to Mangila and received as consideration thereof P20.00.^[6]

While the appellant attempts to discredit the testimony of said police officers, he has not shown any improper motive why they should testify in the manner that they did. Thus their testimonies are entitled to full faith and credence.^[7] As a matter of fact courts give much credence to entrapping police officers, as in this case, as they are presumed to be in the regular performance of official duties.^[8]

Drug addiction is one of the most pernicious evils that has ever crept into our society. More often than not it is the young who constitute the greater majority of the citizenry who are the victims. It is of common knowledge that drug addicts become useless if not dangerous members of society and in some instances turn up to be among the living dead. This is the reason why the courts and law enforcement agencies should continue in their relentless campaign not merely to minimize but to totally eradicate the evil before it is too late. And everyone must be involved in this drive if we are to succeed. The peddlers of drugs are actually agents of destruction. They deserve no less than the maximum penalty.

WHEREFORE, the decision appealed from is **AFFIRMED** in toto with costs against accused-appellant.

SO ORDERED.

Teehankee, C.J., Narvasa, Cruz, and Grino-Aquino, JJ., concur.

[1] Exhibits J to J-1.

[2] Exhibit G.

[3] Exhibit F.

[4] Section 20 Art. IV of the 1973 Constitution provides as follows: "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."

Section 12(1), Article III of the 1987 Constitution also provides: "Any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice. If the person cannot afford the services of counsel, he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel."

[5] Exhibit G and J.

[6] TSN November 5 1984, pp. 3-12; September 24, 1984 pp. 4-14.

[7] People vs. Alcantara, 126 SCRA 425 (1983); People vs. Zurbito 151 SCRA 677 (1982).

[8] Rule 131, Section 5(m) Rules of Court.

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