

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BERNARDO VILORIA, JR. Y DELIMOS, ACCUSED-APPELLANT.

G.R. No. 72781. November 29, 1990

Ponente: FERNAN, C.J.

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FERNAN, C.J.:

Bernardo Viloria alias "Junior Paa" was charged before the Regional Trial Court, National Capital Judicial Region Branch VI, Manila, with violating Section 4, Article II in relation to Section 21(b) of Republic Act No. 6425 otherwise known as the Dangerous Drugs Act of 1972 as amended, in an information which reads as follows:

"That on or about February 13, 1984 in the City of Manila, Philippines, the said accused, not being authorized by law to sell, deliver, give away to another or distribute any prohibited drug, did then and there willfully and unlawfully sell or offer for sale two (2) plastic bags of dried mari-juana leaves and seeds and one (1) plastic bag of marijuana dried leaves and seeds in his possession which are prohibited drugs.

"Contrary to law."[1]

When arraigned, the accused pleaded not guilty. Trial on the merits ensued. Subsequently, the lower court adjudged Bernardo Viloria alias "Junior Paa" guilty of the crime charged. The dispositive portion of the decision reads:

"IN VIEW OF THE FOREGOING CONSIDERATION, the guilt of the accused, having been proven beyond reasonable doubt of the crime charged against him and in accordance with Section 4, Article II in relation to Section 21(b) of Republic Act No. 6425 as amended by Presidential Decree No. 1675 which took effect on February 17, 1980, the accused is hereby sentenced to the penalty of life imprisonment and to pay the fine of P20,000.00 and to pay the cost.

"The two (2) tea bags of dried marijuana leaves and fruiting tops are hereby ordered confiscated in favor of the state.

"SO ORDERED."[2]

Accused-appellant Viloria is now before this Court seeking a reversal of the aforementioned decision. In his Brief, he alleged that the court a quo gravely erred in convicting him for a violation of Section 4, Article II of Presidential Decree 1675 on the basis of the untruthful statements of the prosecution witnesses.[3]

As gathered from the evidence presented by the prosecution, at one o'clock in the afternoon of February 13, 1984, Capt. Emmanuel Manzano and Pfc. Rolando Magno received a tip from an informant that a certain "Junior Paa" was actively engaged in selling and distributing marijuana leaves and fruiting tops to prospective buyers including students in nearby schools within the vicinity of Labores Extension, Pandacan, Manila.

Acting on that information, Lt. Col. Manuel T. Raval, the Commanding Officer of the 13th NRU, Narcotics

Command, Armed Forces of the Philippines, ordered Capt. Manzano to form a team to conduct a buy-bust operation against the said "Junior Paa". Thus, on that same afternoon, at about 4:30, the team composed of Capt. Manzano, Pfc. Rolando Magno, Pfc. Jaime Amor and the informant proceeded to Labores Street, Pandacan, Manila where the trafficking of marijuana was believed to take place.[4]

As Pfc. Magno positioned himself at a strategic place, Pfc. Amor and the informant walked along Labores Street. It was not long after when they were approached by the suspect Bernardo Vilorio alias "Junior Paa" (a childhood monicker on account of his big feet). They conversed with him for a while and then Pfc. Amor handed the suspect two (2) marked ten peso bills. The suspect then left his supposed buyers and went inside a small alley. Thereafter, he returned with two (2) tea bags of marijuana leaves and fruiting tops which he gave to Pfc. Amor. Upon receiving the goods, Pfc. Amor scratched his head as a pre-arranged signal to his teammates to come over. Captain Manzano and Pfc. Magno, rushing to where the three were, immediately accosted the suspect Bernardo Vilorio and placed him under arrest after identifying themselves as NARCOM operatives. Capt. Manzano interrogated Vilorio who verbally admitted his guilt and even pointed to one alias Ody (Odie) as the one who received the two (2) ten peso bills. The NARCOM agents also found in Vilorio's possession another tea bag of dried marijuana leaves. The marked money was never recovered.[5] The two tea bags, upon laboratory examination were found "positive to the test for marijuana, a prohibitive drug." [6]

For his part, accused Bernardo Vilorio alias "Junior Paa", 31 years old, a construction helper/electrician testified that at around 4:30 in the afternoon of February 13, 1984, while walking along Labores Street in Pandacan on his way home, he saw a boy being chased by two men. The boy managed to elude his pursuers so the latter turned to the accused and asked him if he knew a person by the name of "Pogs". He answered that he did not know anyone by that name but despite his denial, he was nonetheless brought for verification inside a parked Tamaraw jeep. Inside he saw three (3) persons who had also been apprehended. They were all taken to Camp Crame for interrogation but he never gave any written statement. He averred that he was charged as a pusher because he failed to help the two agents in catching the boy at Labores Street. As a consequence, they suspected him of being in connivance with the boy. He signed a receipt[7] against his will because he could no longer endure the maltreatment done to him by the PC officers. That receipt attested that three (3) tea bags of marijuana leaves and fruiting tops had been seized from him.[8]

The judgment of conviction must be upheld.

Pfc. Amor, who posed as the buyer, and Pfc. Magno clearly and positively identified accused Vilorio as the marijuana peddler. Vilorio's bare denials and his unsubstantiated allegation that he was being framed up because he did not help the law enforcers in capturing a certain boy is quite incredible and cannot overcome the positive and unequivocal statements of the two operatives that it was the accused Vilorio who had sold them the marijuana leaves and fruiting tops.

The alleged contradiction pointed out by the accused in the testimonies of Pfc. Amor and Magno regarding the description of the seized marijuana is too trivial to warrant an acquittal. Whether or not the tea bags contained marijuana leaves and fruiting tops or simply marijuana stalks and seeds does not alter at all the inescapable truth that Vilorio had been caught red-handed in the act of peddling illicit drugs. Besides, the two peace officers could not be faulted for making the wrong analysis of the marijuana because they are not experts in that field.

The accused also called attention to the non-recovery of the two marked ten peso bills which accused reportedly passed on to "Ody". He contended that if the money were not retrieved, then it could not be established that the delivery of the goods was by virtue of that cash.

The argument is untenable. Section 4, Article II of Republic Act No. 6425, as amended, provides:

"Section 4. Sale, Administration, Delivery, Distribution and Transportation of Prohibitive Drugs. - The penalty of life imprisonment to death and a fine ranging from twenty thousand to thirty thousand pesos 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 transaction. If the victim of the offense is a minor, or should a prohibited drug involved in any offense under this Section be the proximate cause of the death of the victim thereof, the maximum penalty herein provided shall be imposed."

That the marked bills had not been found is inconsequential. Monetary consideration is not an essential element of the crime under discussion. The mere act of selling or even acting as a broker in a sale of marijuana and other prohibited drugs consummates the crime under Section 4.[9]

Just recently, the Court had occasion to reiterate this principle in the case of *People v. Romeo de la Cruz v. Meda*, G.R. No. 87607, October 31, 1990, thus:

"The failure of the prosecution to present the twenty-peso bill used in the buy-bust operation does not negate the existence of the crime charged against the appellant. In *People v. Gatong-o*, No. 78698, December 29, 1988, it was held that even without the money to buy the marijuana, when the police officer went through the motion as a buyer and his offer was accepted by the appellants and the marijuana delivered to the police officer, the crime was consummated by the delivery of the goods. Likewise, in *People v. Teves*, G.R. No. 81332, April 25, 1989, '(T)he fact that the accused returned with the amount of marijuana corresponding to the offered price suffices to constitute if not sale, then delivery or giving away to another and distribution of the prohibited drug punishable under Section 4, Article II of Republic Act 6425.' It was not clearly established where the twenty-peso bill went but it does not weaken the cause of the prosecution. So long as the marijuana actually given by the accused was presented before the lower court, the absence of marked money does not create a hiatus in the prosecution evidence. (*People v. Teves*, G.R. No. 81332, April 25, 1989)"

All told, we see no reason to reverse the appellate ruling of the trial court. Compared to the baseless disclaimers of the accused, the narration of the incident by the prosecution witnesses is far more worthy of belief coming as it does from law enforcers who are presumed to have regularly performed their duty in the absence of convincing proof to the contrary.[10]

WHEREFORE, the judgment under review is hereby AFFIRMED.

SO ORDERED.

Gutierrez, Jr., and Bidin, JJ., concur.
Feliciano, J., on leave.

[1] Rollo, p. 4.

[2] Rollo, p. 13.

[3] Appellant's Brief, p. 4.

[4] TSN, April 2, 1984, pp. 4-5

[5] TSN, April 2, 1984, pp. 5-7; April 16, 1984, pp. 18-22, 24-26.

[6] Exhs. A, B, D, E, G and H.

[7] Exh. C.

[8] TSN, August 1, 1984, pp. 65-74.

[9] See *People v. Madarang*, G.R. No. 70569, January 7, 1987, 147 SCRA 123.

[10] *People v. Francis*, G.R. No. 69253, September 30, 1987, 154 SCRA 495.

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