

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RONALDO ROSAS Y MILLIOMEDA, ACCUSED-APPELLANT.

G.R. No. 72782. April 30, 1987

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is an appeal brought by the accused Ronaldo Rosas y Milliomededa from the decision of the Regional Trial Court of Manila, Branch VI finding him and a Peter Javier guilty beyond reasonable doubt of violating Section 4, Art. II in relation to Sec. 2(i) Art. I, and Sec. 21(b) of Republic Act No. 6425 (Dangerous Drugs Act of 1972, as amended) and sentencing both to suffer the penalty of reclusion perpetua, to pay a fine of P20,000.00, and to pay the costs.

Peter Javier did not appeal the decision.

The information filed against the accused alleged:

"That on or about August 13, 1984, in the City of Manila, Philippines, the said accused, conspiring and confederating together and helping each other, not being authorized by law to sell, deliver, give away to another, transport or distribute any prohibited drug, did then and there wilfully and unlawfully sell and deliver for monetary consideration two (2) tin foils containing dried marijuana leaves at P10.00 per tin foil, which is a prohibited drug.

"Contrary to law."

The prosecution's evidence upon which the lower court based its finding of guilt beyond reasonable doubt are summarized by the said court as follows:

"It is very clear from the evidence adduced by the prosecution that these Peter Javier and Ronaldo Rosas were friends and upon report made by Barangay Councilman Pedro Capili to the authorities at Station 4, he noticed that there were Two (2) persons selling marijuana at the compound of 429. Upon such information, Sgt. Enrique David spared no time in responding to the call of Barangay Councilman Pedro Capili. So he, together with Pfc. Martin Orolfo and Pedro Capili referred to the premises referred to by Barangay Councilman Capili. They proceeded to Barangay 600, Zone 59 at Valenzuela Ext., Sta. Mesa, Manila and right then and there at No. 429 Int. 6, Valenzuela Ext., Sta. Mesa, Manila and they met Peter Javier alias 'Peter' and Ronaldo Rosas alias 'Bondat'. Before proceeding to that place, Sgt. Enrique David had made a plan to catch the pushers of their nefarious acts. So, with the help of Pedro Capili, Barangay Councilman, he made Pfc. Martin Orolfo to pose as a buyer and when Pfc. Orolfo met Peter Javier alias 'Peter' and Ronaldo Rosas alias 'Bondat' in the compound above-mentioned, he approached Peter Javier. However, accused Ronaldo Rosas alias 'Bondat' asked Pfc. Orolfo the following words — 'Pare, ilan ang scoring mo?' to which Pfc. Orolfo informed him Two (2) foils and thereafter, he gave 4 P5.00 bills to Peter Javier, and it was at this process of the transaction when Pfc. Orolfo made the proper signal of wiping his face with his handkerchief as a result of which, Barangay Councilman Pedro Capili and Sgt. Enrique David approached them. Sgt. David and Councilman Capili together with Pfc. Orolfo arrested Pedro Javier and right in his pocket the 4 P5.00 bills were confiscated which

peso bills had been properly marked. The accused Ronaldo Rosas tried to run away, however, he was apprehended by Pfc. Orolfo. When Pedro Javier was arrested, he even directed Sgt. David, Pfc. Orolfo and Mr. Capili to his house and underneath his bed Peter Javier pointed the 16 foils of dried marijuana leaves hidden under his bed. When Ronaldo Rosas was apprehended it was found on his possession Two (2) tin foils containing marijuana. The same had been confiscated by Councilman Capili. Likewise, there was another 4 sticks found in the possession of accused Ronaldo Rosas inside his pocket.

"There is no doubt and it had been proven beyond reasonable doubt that Peter Javier y Sangeles was selling marijuana leaves contained in tin foils which had been examined by forensic chemist and found positive of marijuana, and so with the Two (2) tin foils found in the possession of Ronaldo Rosas was likewise positive of marijuana. This accused Ronaldo Rosas y Milliameda tried to escape, however, he was apprehended by Councilman Capili. The Two (2) accused Peter Javier y Sangeles and Ronaldo Rosas y Milliameda are compadres. As to how they became compadres the Court was not able to determine. It should be taken into account that at the time of the transaction, while Pfc. Orolfo was transacting with Peter Javier for the purchase of tin foils of marijuana, accused Ronaldo Rosas informed Pfc. Orolfo that the tin foils delivered to him were very strong or in other words quoting verbally the statement of Ronaldo Rosas 'Malakas yan'. With these acts of Ronaldo Rosas constitute a conspiracy of informing the supposed buyer that the tin foils of marijuana delivered to the buyer were very strong which is an inducement on the part of the buyer that the marijuana that they were selling was of a strong variety." (pp. 5-6, Rollo)

Appellant Rosas raised the following assignments of errors in this appeal:

- THE LOWER COURT ERRED IN HOLDING ACCUSED-APPELLANT, RONALDO ROSAS GUILTY OF THE CRIME CHARGED WHEN THERE WAS NO EVIDENCE OF DIRECT PARTICIPATION AGAINST HIM.
- THE LOWER COURT ERRED IN CONVICTING ACCUSED-APPELLANT, WHEN PROSECUTION'S EVIDENCE IS TOTALLY BEREFT OF PROOF OF CONSPIRACY.
- THE LOWER COURT ERRED IN CONVICTING ACCUSED-APPELLANT WHEN THERE IS NO EVIDENCE THAT HE TOOK PART IN THE COMMISSION OF THE CRIME AS A PRINCIPAL BY INDUCTION.
- THE LOWER COURT ERRED IN CONVICTING ACCUSED-APPELLANT WHEN EVIDENCE SHOW THAT HIS RIGHTS UNDER SECTION 20, ARTICLE IV OF THE 1973 PHILIPPINE CONSTITUTION WERE GROSSLY VIOLATED.

The first three assigned errors center on whether or not there was conspiracy between appellant Rosas and his co-accused Peter Javier in the sale of marijuana.

Appellant Rosas contends that he was a mere passive onlooker in the drug sale considering that Pat. Orolfo as poseur-buyer was transacting with Javier only and it was Javier who actually handed the two tin foils of marijuana to the former with Rosas standing at a distance of some two to three meters away.

This contention is without merit. We agree with the lower court's findings that conspiracy has been clearly established.

The arguments of the appellant are premised on his contention that the sale of marijuana was effected solely by his co-accused, Peter Javier, who decided not to appeal his conviction.

Appellant Rosas could not have been an innocent bystander in the marijuana deal transacted by this co-accused Javier. Pat. Orolfo was introduced by an informer to Rosas alias "Bondat" who immediately asked the former "Pare, magkano bang i-score-in mo?" (How much are you buying?) (tsn., p. 20, Dec. 17, 1984). Rosas assumed

right away that Pat. Orolfo was a prospective buyer of marijuana. Pat. Orolfo asked for two foils of marijuana which quantity Javier promptly handed to Pat. Orolfo (tsn., p. 21, Dec. 17, 1984). While the change of money and marijuana was being done, Rosas stated "Pare, malakas yan" (tsn., p. 22, Dec. 17, 1984), showing that he knew the quality of the marijuana Javier was selling.

Furthermore, Rosas tried to flee while they were being arrested. However, he was apprehended by Pat. Orolfo. Upon his apprehension, two tin foils of marijuana were found in his possession.

These circumstances were all aptly taken into consideration by the lower court in establishing conspiracy between appellant Rosas and Javier.

For conspiracy to exist, the evidence need not establish the actual agreement which shows the preconceived plan, motive, interest or purpose in the commission of the crime. It is enough that it is shown that their concerted efforts were performed with closeness and coordination indicating their common purpose to sell prohibited drugs. (People v. Natipravat, G.R. No. 69876, Nov. 13, 1986).

We find no reason to depart from the trial court's findings based on its appreciation of the evidence of both the prosecution and the defense.

Moreover, we sustain the conclusions of the trial court which gave credence to the narration of the incident by the prosecution witnesses, especially as they happen to be police officers who are presumed to have performed their duties in a regular manner in the absence of evidence to the contrary. (People v. Patog, G. R. No. 69620, Sept. 24, 1986; and People v. De Jesus, G. R. Nos. 71942-43, Nov. 13, 1986).

In the fourth assigned error, the appellant contends that he was not informed of his constitutional rights to silence and to counsel during his apprehension and the investigation at Station 4 of the Western Police District. So much so that he (Rosas) and Javier affixed their signatures on Exhibits "G" and "H" and other related documents without the assistance of counsel nor were they given or offered one. Without such compliance, there was no intelligent waiver of said rights. Therefore, Rosas alleges that the entirety of the people's exhibits must necessarily be deemed inadmissible in evidence. He argues that, consequently, proof beyond reasonable doubt for a conviction is wanting.

There is no merit in this contention.

Exhibits "G" and "H" are not confessions or extrajudicial statements. No confessions were introduced in evidence. Exhibits "G-1" to "G-5" are the marked P5.00 bills. Exhibit "G-5" was signed by Peter Javier to show that the marked bills were the very money bills used to pay for the marijuana and later seized once the arrest was made. The signature of Javier was only a double precaution used by the police to avoid any later charge of tampering with evidence or substituting new bills marked only after the entire incident was over. Exhibit "H" is a receipt for property seized by the police from the accused while "H-1" is the signature of both Javier and Rosas on the receipt to show that the receipted-for-items were indeed taken from the accused.

There is no dispute that the marked bills or the receipts are indeed what the prosecution purported or represented them to be. Receipts for seized items are mandatory on the part of apprehending and seizing police officers. There is nothing in the decision to indicate that the questioned signature of the appellant on the receipt played any role at all in the determination of his guilt.

Moreover, even assuming that we completely disregard or reject the exhibits consisting of the signatures of the appellant and his co-accused on a certain money bill and a receipt, the other exhibits are not automatically excluded along with the signatures, as the others dealt not only with marked bills and a receipt but also with the

arresting officers' report and the forensic chemist's findings.

The evidence is more than enough to sustain a judgment of conviction. Pat. Orolfo who acted as poseur-buyer clearly and positively testified that Rosas was the person who asked him how many foils of marijuana he (Orolfo) wanted to buy. Also, he testified that it was Rosas who assured him of the potency of the prohibited drug by saying, "Malakas yan". The identity and source of the marijuana drug is sufficiently established. The positive testimony of the prosecution witness is given greater weight than the accused's denial (*People v. De Jesus*, supra; and *People v. Mostoles, Jr.*, 124 SCRA 906).

WHEREFORE, the judgment appealed from is AFFIRMED.

SO ORDERED.

Fernan, (Chairman), Paras, Padilla, Bidin, and Cortes, JJ., concur.

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