

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANTONIO ENRILE Y VILLAROMAN AND ROGELIO ABUGATAL Y MARQUEZ, ACCUSED-APPELLANTS.

G.R. No. 74189, May 26, 1993

Ponente: CRUZ, J.

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CRUZ, J.:

Sentenced to life imprisonment and a fine of P30,000.00 for violation of the Dangerous Drugs Act, Antonio Enrile faults the Regional Trial Court of Quezon City for convicting him.[1] His co-accused, Rogelio Abugatal, was killed in an attempted jailbreak and this appeal is dismissed as to him.[2] We deal here only with Enrile.

The evidence for the prosecution showed that at about half past six in the evening of October 25, 1985, a buy-bust team composed of Pat. Jaime Flores and Pat. Wilson Rances of the Quezon City Police Anti-Narcotics Unit was dispatched to entrap Rogelio Abugatal at Roosevelt Avenue in San Francisco del Monte, Quezon City. The plan was made on the strength of a tip given by Renato Polines, a police informer, who was himself to pose as the buyer.[3]

In their separate testimonies,[4] both policemen said that on that occasion they saw Polines hand over to Abugatal the marked money representing payment for the mock transaction. Abugatal left with the money and returned ten minutes later with a wrapped object which he gave Polines. The two policemen then approached Abugatal and placed him under arrest, at the same time confiscating the wrapped object. Subsequent laboratory examination revealed this to be marijuana with flowering tops weighing 22 grams.[5]

The prosecution also showed that, upon prodding, Abugatal led the policemen to a house at 20 De Vera Street, also in San Francisco del Monte, Quezon City, where he called out for Antonio Enrile. Enrile came out and met them at the gate. Abugatal pointed to Enrile as the source of the marijuana, whereupon the policemen immediately arrested and frisked him. They found in the right front pocket of his trousers the marked money earlier delivered to Abugatal, with Serial No. PJ966425.[6]

At the police headquarters, Abugatal signed a sworn confession affirming the above narration.[7] Enrile refused to make any statement pending consultation with a lawyer.

In his defense, Enrile testified that the marked money was "planted" on him by the police officers, who he said simply barged into his house without a warrant and arrested him. He stoutly denied any knowledge of the marijuana. He claimed that at the time of the alleged incident, he was attending, as a dental technician, to a patient whom he was fitting for dentures.[8] The supposed patient, Alicia Tiempo, corroborated him.[9]

Enrile admitted that he had earlier been convicted of selling marijuana and that he had a pending application for probation. He suggested that this could be the reason the policemen sought to implicate him in the new charge and thus weaken his application.[10]

Abugatal contradicted his earlier sworn statement and declared on the stand that he had not sold any marijuana to

Polines. What really happened, he said, was that two male teenagers approached him that evening and told him to buy marijuana, giving him P50.00 for the purpose. When he said he did not have any marijuana and did not know where to buy it, they forced him to go to Enrile's house and to give him the marked money. He did so because they had a knife. Enrile handed him a plastic bag which was later found to contain dried marijuana fruiting tops.[11]

Judge Willelmo C. Fortun erred when he gave credence to the sworn statement of Abugatal, considering that it was made without compliance with the requisites of a custodial investigation, including the right to the assistance of counsel. The confession was clearly inadmissible. It did not follow the ruling of this Court in *Morales v. Enrile*,[12] promulgated on April 26, 1983, as reiterated in *People v. Galit*,[13] promulgated on March 20, 1985, where Justice Hermogenes Concepcion laid down the correct procedure, thus:

"7. At the time a person is arrested, it shall be the duty of the arresting officer to inform him of the reason for the arrest and he must be shown the warrant of arrest, if any. He shall be informed of his constitutional rights to remain silent and to counsel, and that any statement he might make could be used against him. The person arrested shall have the right to communicate with his lawyer, a relative, or anyone he chooses by the most expedient means--by telephone if possible--or by letter or messenger. It shall be the responsibility of the arresting officer to see to it that this is accomplished. No custodial investigation shall be conducted unless it be in the presence of counsel engaged by the person arrested, by any person on his behalf, or appointed by the court upon petition either of the detainee himself or by anyone on his behalf. The right to counsel may be waived but the waiver shall not be valid unless made with the assistance of counsel. Any statement obtained in violation of the procedure herein laid down, whether exculpatory or inculpatory, in whole or in part, shall be inadmissible in evidence."

The challenged decision of the trial court was promulgated on February 14, 1986, long after the above-cited decisions had become effective.

Even under the old doctrine, in fact, it is doubtful if Abugatal's confession without the assistance of counsel could have been sustained. It was not enough then to inform the suspect of his constitutional rights. The trial court had to ascertain for itself that the accused clearly understood the import and consequences of his confession and had the intelligence and mental capacity to do so.[14] There is no showing in the record that this was done, short of the statement in the decision that Abugatal had been informed of his rights and had validly waived the assistance of counsel.

If the sworn statement of Abugatal was inadmissible against him, much less was it admissible against Enrile.

The prosecution rejected Abugatal's testimony that he was forced to go to Enrile's house and buy marijuana from him, insisting instead on the extrajudicial confession. With that confession outlawed and the testimony disowned by the prosecution itself, there is no evidence at all against Enrile to tie him with Abugatal.

It was Abugatal who was allegedly caught red-handed by the policemen as he sold the marijuana to Polines. Enrile was not even at the scene of the entrapment at that time. Abugatal said he did lead the policemen to Enrile's house where he pointed to Enrile as the source of the marijuana. Even assuming this to be true, that circumstance alone did not justify Enrile's warrantless arrest and search.

Under Rule 113, Section 5, of the Rules of Court, a peace officer or a private person may make a warrantless arrest only under any of the following circumstances:

- (a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;
- (b) When an offense has in fact just been committed, and he has personal knowledge of facts indicating that the

person to be arrested has committed it; and

(c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

Paragraphs (a) and (b) are clearly inapplicable. Paragraph (b) is also not in point because the policemen who later arrested Enrile at his house had no personal knowledge that he was the source of the marijuana.

According to the policemen themselves, what happened was that they asked Abugatal who gave him the marijuana and were told it was Enrile. It was for this reason that they proceeded to Enrile's house and immediately arrested him.[15]

What the policemen should have done was secure a search warrant on the basis of the information supplied by Abugatal and then, with such authority, proceeded to search and, if the search was fruitful, arrest Enrile. They had no right to simply force themselves into his house on the bare (and subsequently disallowed) allegations of Abugatal and bundle Enrile off to the police station as if he had been caught in flagrante delicto.

The discovery of the marked money on him did not mean he was caught in the act of selling marijuana. The marked money was not prohibited per se. Even if it were, that fact alone would not retroactively validate the warrantless search and seizure.

The principle has been honored through the ages in all liberty-loving regimes that a man's house is his castle that not even the mighty monarch, with all his forces, may violate. There were measures available under the law to enable the authorities to search Enrile's house and to arrest him if he was found in possession of prohibited articles. The police did not employ these measures.

What they did was simply intrude into Enrile's house and arrest him without the slightest heed to the injunctions of the Bill of Rights. By so doing, they were using the tactics of the police state, where the minions of the government place little value on human rights and individual liberties and are obsessed only with the maintenance of peace and the punishment of crime.

These are laudable objectives in any well-ordered society. But it should never be pursued at the cost of dismantling the intricate apparatus for the protection of the individual from overzealous law-enforcers who mistakenly believe that suspected criminals have forfeited the safeguards afforded them by the Constitution. Law-enforcers are not licensed to themselves break the law to apprehend and punish law-breakers. Such a practice only leads to further defiance of the law by those who have been denied its protection.

In light of the proven circumstances of this case, the Court is not convinced that there is enough evidence to establish Enrile's guilt beyond the shadow of a doubt. The paucity of such evidence only strengthens the suspicion that the marked money was really "planted" on Enrile by the police officers who were probably worried that their earlier efforts in securing Enrile's conviction as a drug pusher would be thwarted by his application for probation.

Whatever their motives, the fact is that Abugatal's sworn statement implicating Enrile is inadmissible against Enrile, and so is the marked money allegedly found on him as a result of the illegal search. The only remaining evidence against the appellant is Abugatal's testimony, but this has been questioned and discredited by the prosecution itself. Its case against Enrile is thus left without a leg to stand on and must therefore be dismissed.

Law-enforcement authorities are admonished that mere enthusiasm in the discharge of their duties is not enough to build a case against a person charged with a crime. They should build it with painstaking care, stone by stone of provable fact, and with constant regard for the rights of the accused, before they can hope to secure a conviction

that can be sustained in a court of justice.

WHEREFORE, the conviction of Antonio Enrile in the challenged decision is hereby SET ASIDE and REVERSED. The accused-appellant is ACQUITTED and shall be released immediately. It is so ordered.

Griño-Aquino, Bellosillo, and Quason, JJ., concur.

[1] Appellant's Brief, Rollo pp. 72-92.

[2] Rollo, p. 48.

[3] TSN, Nov. 25, 1985, pp. 2-3.

[4] Ibid, pp. 3-6, 18-19.

[5]Exh. D, Original Records, p. 5.

[6] TSN, Nov. 25, 1985, pp. 1-4.

[7] Original Records, pp. 1-4.

[8] TSN, Jan. 10, 1986, p. 51.

[9] TSN, Jan. 29, 1986, pp. 71-72.

[10] TSN, Jan. 10, 1986, p. 54.

[11] TSN, Jan. 13, 1986, pp. 60-63, 67-68.

[12] 121 SCRA 538.

[13] 135 SCRA 465.

[14] People vs Buscato, 74 SCRA 30; People vs Ramos, 122 SCRA 312; People vs Zea, 130 SCRA 75 citing Us. vs De los Santos, 54 Phil. 329.

[15] TSN, Nov. 25, 1985, pp. 6-8.

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