

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RUFINO BANTAC Y LAGUNES & BENJAMIN C. BUGARIN, ACCUSED, RUFINO BANTAC Y LAGUNES, APPELLANT.

G.R. No. 77115. November 08, 1988

Ponente: PARAS, J.

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PARAS, J.:

Accused-appellant Rufino Bantac y Lagunes and co?accused Benjamin C. Bugarin stand charged with Violation of Section 21, Paragraph B, Article IV in relation to Section 4, Article II of Republic Act 6425 (Attempt and Conspiracy to Sell Dangerous Drug) in an information filed by 4th Assistant Fiscal Victor P. Dizon of Baguio City, Philippines, which reads as follows:

"That on or about the 9th day of May, 1985, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually aiding each other, did then and there willfully, unlawfully and feloniously attempt to sell about two and a half kilos of dried marijuana leaves, without any authority of law to do so, knowing fully well that said articles are marijuana leaves, (marijuana being) a prohibited drug, in violation of the aforecited provision of law.

Contrary to law."

(p. 1, Brief for the Accused?Appellant; p. 61, Rollo)

Upon arraignment, the two accused entered the plea of not guilty. Thereafter trial on the merits ensued, the court summarizing the finding of facts as follows:

"According to Sgt. Godofredo Fider and Sgt. Glenn Logan, both of the Narcotics Command (NARCOM), 1st Regional Unit, and CIC Bernabe Crisostomo of the R-2 Division, let Regional Unified Command (RUC), in the morning of May 8, 1985, CIC Crisostomo was assigned by his superior officer, Lt. Magalong, to pose as a marijuana buyer and make contract with the herein accused Benjamin Bugarin, also known as Benny, and reportedly a marijuana pusher, at the Philippine Rabbit Bus Line Terminal, along Magsaysay Avenue, Baguio City. CIC Crisostomo was able to establish contact with Benny, whom he had already known since two months before, at about 9:00 o'clock and made known his desire to buy marijuana. Benny quoted the price of P950.00 a kilo. Then he advised Crisostomo to check-in at the Pines Hotel, also on Magsaysay Avenue, where Benny would deliver the marijuana. Thereupon, Benny left. At about 11:30, he went to the hotel to inform Crisostomo that delivery would be effected the following day. Hence, Crisostomo stayed put in the hotel.

At about 8:00 o'clock in the morning of the following day, May 9, Benny returned to Crisostomo and told the latter that they would get the marijuana from Poliwes. So, Crisostomo called up their headquarters to borrow the car of Major Marvin Concha, another superior officer, which Sgt. Amando Patayan brought to the Hotel. The three - Crisostomo, Benny and Patayan thus left for Poliwes in the car of Major Marvin Concha.

The NARCOM people, who had earlier been informed of the operation and were requested to coordinate, were contacted and told of the movement of Crisostomo and Benny. Hence, Sgt. Fider took a cab and followed

Crisostomo to Poliwes while Sgt. Logan rode with Lt. Barcena in a white car and likewise followed.

At Poliwes, Benny led Crisostomo to a house where he introduced Crisostomo to a certain Ruffy. Ruffy asked if Crisostomo was to buy marijuana and when the latter answered in the affirmative, Ruffy quoted the price of P950.00 per kilo. At the same time, Ruffy brought out a plastic bag (Exhibit "B-4") which he got from the side of a bed and handed it to Crisostomo, Crisostomo examined its contents, and after satisfying himself that they were marijuana, he gave a pre-arranged signal to the members of the back-up team who followed them to Poliwes. Sgt. Fider and Sgt. Logan, together with the other members of the back-up team, closed in and arrested Benny and Ruffy who turned out to be the other accused, Rufino Bantac. They also confiscated the plastic bag (Exhibit "B-4") which contained four bundles of suspected marijuana (Exhibits "B", "B-1" to "B-3").

The confiscated items were later on referred to the PC Crime Laboratory, Regional Unit No. 1, Camp Dangwa, La Trinidad, Benguet, for chemical examination (Exhibit "A"). Forensic Chemist Carlos Figueroa conducted the examination and determined that the specimens, with an aggregate weight of 2.4 kilos in four (4) separate bundles, were positive to the tests for marijuana (Exhibit "C").

Both accused denied the charge. On the part of Bugarin, he claimed that he merely innocently tagged along to Poliwes where he was later on arrested. He declared that a certain Rey had earlier introduced him to a certain Benjie, who turned out to be CIC Crisostomo. In April, 1985, Rey and Crisostomo went to the Lits Beauty Parlor where Bugarin was working as a beautician and expressed their desire to buy marijuana. Bugarin, however, told them that he knew of no one selling the stuff. On May 10, 1985, the two returned and invited Bugarin to the Philippine Rabbit Bus Line terminal and introduced him to the uncle of Rey who was driving a red car. Then the group proceeded to Poliwes in the car of Rey's uncle.

At Poliwes, Rey and Crisostomo went to a house while Bugarin and Rey's uncle stayed behind in the car. After about five minutes, Rey called for his uncle and Bugarin to the house. Inside the house, they came upon a person who turned out to be Rufino Bantac who was doing nothing but standing near the window. Suddenly, Bugarin and Bantac were arrested by Crisostomo and Rey's uncle who turned out to be a soldier. A bag containing marijuana was seized from inside a room.

On the other hand, Bantac gave the version that in the afternoon of May 8, 1985, he arrived in Baguio from his native town of Suyo, Ilocos Sur, to visit his relatives at Poliwes. But he spent the night in the house of a townmate, Ana Causan, at the Slaughterhouse Compound. He went to Poliwes already in the morning of May 9 to see his half-brother Polido Balingan, married to Juana Balingan. Polido happened to be out at the time. While Juana was in the house, she was preparing to leave for Baguio City proper and so she asked Bantac to keep watch of the house while they are away.

After Juana had left, three (3) visitors of the Balingans arrived. They asked for Polido. After Bantac had answered that Polido was not in, some companions of the three entered the house and arrested Bantac. When Bantac protested and asked why he was being arrested, their answer was: "So that Manang Juana will surrender." They confiscated something from under a bed in the house which Bantac later on learned to be marijuana. Benjamin Bugarin who was with the group who arrested Bantac was similarly arrested. Bantac claimed that Bugarin is a complete stranger to him.

Ana Causan confirmed Bantac's allegation that the latter slept in her house on the night of May 8, 1985." (pp. 1-3, Decision; pp. 75-78, Rollo)

Finding the version of the prosecution more worthy of credit, the trial court rendered its Decision[1], the decretal portion which provides that:

"WHEREFORE, the Court finds and declares both the accused RUFINO BANTAC Y LAGUNES and BENJANIM BUGARIN Y CRUZ guilty beyond reasonable doubt of attempted sale of marijuana and hereby sentences each of them to suffer life imprisonment; to pay a fine of P20,000.00, without subsidiary imprisonment in case of insolvency; and to pay their proportionate shares in the costs.

In the service of their sentenced, the accused shall be credited with their preventive imprisonment under the terms and conditions prescribed in Article 20 of the Revised Penal Code, as amended.

The confiscated marijuana (Exhi-bit "P", "B-1" to "B-3"), together with their container (Exhibit "B-4"), are hereby declared forfeited in favor of the Government, and upon the finality of this Decision, the Acting Branch Clerk of Court is directed to turn over the same to the Dangerous Drugs Custodian (NBI through the Chief, PC Crime Laboratory, Regional Unit No. 1, Camp Dangwa, Trinidad, Benguet, for disposition in accordance with law.

SO ORDERED."

(p. 2, Brief for the accused-appellant; p. 62, Rollo)

Aggrieved by the decision, accused Rufino Bantac interposed the instant appeal. Accused-Benjamin Bugarin did not appeal.

Appellant Rufino Bantac y Lagunes now submits to Us the following -

ASSIGNMENT OF ERRORS

I

"THE TRIAL COURT ERRED IN GIVING WEIGHT AND CREDENCE TO THE TESTIMONIES OF THE PROSECUTION WITNESSES AND IN DISREGARDING THE THEORY OF THE DEFENSE.

II

THE TRIAL COURT ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED DESPITE INSUFFICIENCY OF EVIDENCE." (p. 1, Brief for the Accused-Appellant; p. 61, Rollo)

The appeal deserves no credit. Appellant hinges his appeal on the credibility of witnesses. He assails the trial court in giving more credence to the testimonies of the witnesses for the prosecution in convicting him of the crime charged beyond reasonable doubt. Thus, he questions the following conclusions in the decision of the trial Court.

"The Court, however, has found no reason for doubting the veracity of the version of the prosecution. The Government witnesses had merely been performing their official duties as peace officers. They had no motive or ground for fabricating any evidence against the accused. Neither has the defense suggested any such motive.

On the contrary, the yarn put up by the accused that the apprehending officers just whimsically arrested them for no reason at all makes no sense. The Court cannot believe that the raiding team would take the trouble of making their poseur-buyer check-in at the hotel and move on to as far away as Poliwes following the accused if their intention was merely to trump up a charge against them. Evidence could have been planted and arrest effected right at the Pines Hotel along Magsaysay Avenue. That the officers of the law had to go down to Poliwes, a good 4 to 5 kilometers away from the vicinity of the Pines Hotel along Magsaysay Avenue, to entrap and apprehend the accused is indication enough that they had to wait until the physical evidence consisting of the confiscated marijuana would surface before effecting the arrest.

In short, the Court is fully convinced of the prosecution's version that the accused acted in concert in selling the prohibited stuff to CIC Crisostomo who posed as a buyer. While the transaction might not have been fully consummated in the sense that payment of the stuff was not made, still the law on the matter is clear that an attempt and conspiracy to commit a violation thereof is to be punished as a consummated offense (Sec. 21 (b) in relation to Sec. 4, R.A. 6425, as amended)." (pp. 3-4, Decision; pp. 78-79, Rollo)

We find the above-mentioned findings well-supported by the records of the case. The alleged inconsistency in the testimony of Sgt. Fider that CIC Crisostomo rode in a jeepney going to Poliwes and that of the testimony of CIC Crisostomo that he rode in a car going to Poliwes, is clearly without basis as shown by the following

Testimony of Sgt. Fider in Court

"Q. Did you see the vehicle of Crisostomo or not?

"A. No sir.

"Q. Then, how would you say it was jeep?

"A. Because I first saw that jeep when the other members of the team followed.

x x x x x x x x

"Q. So you did not actually see the vehicle used by Crisostomo?

"A. Yes, sir. (tsn, p.14, Nov. 12, 1985)

The theory of the defense that appellant was a mere boarder of the house where the marijuana was taken does not alter the fact that he knowingly handed the "bayong" with marijuana to CIC Crisostomo for sale to the latter which is the act punishable under the law. It has been established by the prosecution that after several contacts made by Bugarin with the seller of marijuana, a sale of this prohibited article was closed with CIC Crisostomo. With Bugarin so a guide, CIC Crisostomo went to Poliwes to buy marijuana and he was introduced by Bugarin to appellant who personally handed the marijuana to him for sale at P950.00 per kilo.

Defense in an effort to bolster its theory questions the non-presentation of the driver of the red car, Sgt. Armando Patayan and the other members of the buy-bust team especially a certain "Rey" whom defense pointed out as the companion of CIC Crisostomo at the inception of the buy-bust operation. Such contentions hold no water. We have noted that only accused Bugarin mentioned "Rey" as one of CIC Crisostomo's companions but such alleged presence of "Rey" was never acknowledged or admitted openly by the witnesses for the prosecution. Aside from this fact, the declarations of the other companions or members of the raiding team would only be cumulative in effect as they would only be repeating the facts already testified to by CIC Crisostomo. Hence, the prosecution saw no further need to put them on the witness stand.

We find therefore, no reason to reverse the ruling of the trial court as We reiterate the time-honored principle

that in raising the issue of which version to accept and believe, petitioner has to contend with the oft-repeated fundamental rule in criminal as well as civil cases that in the matter of credibility of witnesses, the findings of the trial court are given great weight and the highest degree of respect by the appellate court. The reason of course, is that the trial court is in a better position to decide the question, having seen and heard the witnesses themselves and observed their deportment and manner of testifying during the trial.

WHEREFORE, premises considered, the appeal is hereby DISMISSED.

SO ORDERED.

Melencio-Herrera, (Chairperson), Padilla, Sarmiento, and Regalado, JJ., concur.

[1] Penned by Judge Salvador J. Valdez, Jr.

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