

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RAMON SOLOMON Y MIRABONA, FRANCISCO SANTOS Y DOMINGO, ACCUSED-APPELLANTS.

G.R. No. 77206. October 28, 1988

Ponente: GANCAYCO, J.

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GANCAYCO, J.

This is another prosecution for a violation of the Dangerous Drugs Act.

On January 18, 1984, the Narcotics Command (NARCOM) at Camp Crame, Quezon City received a report from "Erning," one of its informers, regarding drug pushing activities in Manggahan, Barangay Tanong, Marikina, Metro Manila. A team was formed led by Captain Gabriel Paile, with Sgt. Raymundo Fung, Sgt. Rene Nepomuceno, Pfc. Eduardo Estrella, Pat. Reynaldo Maranan, and Pat. Enrico Mangila, as members. Maranan was designated as poseur-buyer of marijuana.

Accompanied by the informer, they proceeded to Manggahan in the afternoon of the same day. The informer and Maranan contacted Ramon Solomon and Francisco Santos to whom the informer introduced Maranan. Maranan talked to the duo about the purchase of marijuana while the rest of the team stayed away at a distance of 10 to 15 meters from the situs of the transaction. As Maranan reached an agreement with the two, Solomon asked Santos to get the stuff. After about 5 to 10 minutes, Santos returned and delivered two (2) aluminum foils to Solomon who gave the same to Maranan. Maranan then paid Solomon with a marked P20.00 bill after which the former scratched his head with his right arm which was the pre-arranged signal for the members of the team to arrest the suspects.

Thus, the team swooped down on the suspects and arrested them after introducing themselves as Narcom agents. The two were frisked and the marked P20.00 bill was found in the possession of Solomon. They were brought to the Narcom headquarters where they were investigated and their sworn statements were taken.

The two (2) aluminum foils containing dried leaves were submitted to the PC Crime Laboratory for examination and they were found to contain marijuana.[1]

In due course, an information was filed in the Regional Trial Court of Pasig, Metro Manila, charging Solomon and Santos with violation of Section 4, Article II of Republic Act 6425, as amended, the Dangerous Drug Act, for selling and/or delivering marijuana leaves in two (2) aluminum foil rolls. Upon arraignment, both accused entered a plea of not guilty and after a trial on the merits, a decision was rendered by the trial court on October 7, 1986 finding the accused guilty of the offense charged, imposing on them the penalty of life imprisonment and ordering them to pay a fine of P20,000.00 without subsidiary imprisonment. It was also directed that the period of preventive imprisonment of the accused shall be credited to the service of their sentence.

Hence, this appeal of the accused who alleged the following assigned errors of the lower court:

“I

THE TRIAL COURT ERRED IN GIVING WEIGHT AND CREDENCE TO THE CONTRADICTING TESTIMONIES OF PROSECUTION WITNESSES PAT. ENRICO MANGILA AND PAT. REYNALDO MARANAN.

II

THE TRIAL COURT ERRED IN NOT ACQUITTING ACCUSED-APPELLANTS ON GROUND OF REASONABLE DOUBT.

III

THE TRIAL COURT ERRED IN ADMITTING THE STATEMENTS OF ACCUSED RAMON SOLOMON AND FRANCISCO SANTOS (EXHIBITS "I" AND "J") RESPECTIVELY WHICH WERE TAKEN IN VIOLATION OF THEIR CONSTITUTIONAL RIGHTS.

IV

THE TRIAL COURT ERRED IN CONVICTING ACCUSED FRANCISCO SANTOS AS PRINCIPAL OF THE CRIME CHARGED."(p. 39, Rollo)

The appeal is devoid of any merit.

Much stress is made by appellants to the inconsistency in the testimonies of Pat. Mangila and Pat. Maranan, in that, while Mangila said that he saw Maranan receive the two (2) aluminum foils from the companion of Solomon, Maranan said he received the foils from Solomon. The discrepancy is not on a material matter. What is clear is that the two (2) aluminum foils were delivered by the appellants to Maranan who posed as a buyer thereof. Mangila who watched the transaction from a distance saw that it was Santos who brought the goods. He may not have noticed that Santos delivered the same to Solomon who turned them over to Maranan. Indeed, Mangila testified that Santos had his back towards him and so he cannot remember his face. That must be the time Santos handed the foils with marijuana to Solomon which Mangila did not see.

Appellants argue that the informer should have been made to testify, and his non-production is a clear suppression of evidence which if produced would be adverse.

Suffice it to state that the discretion to choose the witnesses to be presented for the state rests in the prosecution. Apparently, it was found unnecessary to present the informer. There is sufficient evidence to establish the case of the prosecution. On the other hand, the appellants could have just as well presented said informer as their witness if they felt it would help their cause. Said informer was present during the incident and was personally known to appellants.

Appellants also assail the admissibility of their sworn statements[2] which they assert were taken under duress and without the assistance of counsel. Again, these protestations are without cogent basis. If appellants were really subjected to physical violence in the course of their investigation, they should have requested for a medical examination by a doctor and should have filed a complaint thereafter. This they did not do. A reading of the sworn statements shows that they are replete with details which only the appellants could have possibly furnished. However, as correctly observed by appellants they were not assisted by counsel during the investigation so that the said confessions cannot be considered as evidence against them.

Nevertheless, it is improbable that the Narcom agents would find it necessary to force appellants to execute extrajudicial confessions of the commission of the offense when the evidence they had against the appellants who

were caught in flagrante is sufficient enough. Even without such sworn statements, the guilt of appellants has been established beyond reasonable doubt.

Appellant Santos however pleads that he should be convicted only as an accomplice as he was just a messenger boy who was asked by Solomon to get the marijuana without even knowing what it was.

The Court is not a bit impressed with this argument. Santos was present during the negotiations when Maranan told Santos and Solomon he wanted to buy marijuana leaves. After appellants agreed to sell marijuana to Maranan, Santos left to get the goods and returned with the same which were delivered to Maranan, who in turn paid for the same with marked money. Santos was an active participant in the commission of the offense. He was a co—principal not a mere accomplice. He was a principal by direct participation.[3] He participated in the criminal resolution to commit the offense.

The conviction of appellants and others similarly situated in the past should be an object lesson for others. We should work for a drugless society as drugs are effective means of destruction.

WHEREFORE, the judgment appealed from is AFFIRMED in toto with costs against appellants.

SO ORDERED.

Narvasa, Cruz, Griño-Aquino and Medialdea, JJ., concur.

[1] Exhibit A.

[2] Exhibits I and J.

[3] Par. 1, Article 17, Revised Penal Code.

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