

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. REYNALDO JOMAO-AS Y PADILLA AND ALEXANDER SPANDONIS ALIAS &#8220;BRUTUS&#8221;; DEFENDANTS, ALEXANDER SPANDONIS ALIAS &#8220;BRUTUS&#8221;; DEFENDANT-...**

*G.R. NO. 77397. April 03, 1990*

Ponente: PADILLA, J.

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**PADILLA, J.:**

The defendant-appellant Alexander Spandonis alias "Brutus" has come to this Court seeking the reversal of the decision rendered by Judge Milagros C. Nartatez in Criminal Case No. 12447 of the Regional Trial Court at Davao City, the dispositive portion of which reads, as follows:

"WHEREFORE, finding the guilt of ALEXANDER SPANDONIS alias Brutus of Violation of Section 4 of Republic Act No. 6425 as amended by Batas Pambansa Bilang 179, as charged, proven beyond reasonable doubt, he is hereby sentenced to LIFE IMPRISONMENT and to pay a fine of TWENTY THOUSAND (P20,000.00) PESOS, and to pay a proportionate part of the costs." [1]

The records of the case show that about 4:15 o'clock in the afternoon of 29 June 1985, PC NARCOM agents arrested one Ronaldo Jomao-as y Padilla while selling five (5) matchboxes of marijuana to a civilian informer posing as a buyer, at the Food Plaza situated at the corner of Claveria and San Pedro Streets in Davao City. He was brought to the PC NARCOM headquarters and when questioned, he pointed to the herein appellant Alexander Spandonis as the source of the marijuana confiscated from him. [2] As a result, Ronaldo Jomao-as and the appellant Alexander Spandonis were charged with violation of the Dangerous Drugs Act (Rep. Act No. 6425 as amended), committed, as follows:

"That on or about June 29, 1985, in the City of Davao, Philippines, and within the juris-diction of this Honorable Court, the above-named accused, conspiring and confederating together and helping one another, did then and wilfully, unlawfully and feloniously without having been authorized by law dealt with the sale of five (5) matchboxes of Marijuana leaves, which is prohibited drug." [3]

When arraigned, both accused pleaded "not guilty" to the commission of the crime. The accused Ronaldo Jomao-as, however, subsequently asked for a reinvestigation of the case after which he withdrew his plea of "not guilty." After a re-arraignment, he pleaded "guilty" to a lesser offense and was sentenced accordingly. [4]

The accused, Alexander Spandonis, upon the other hand, moved to dismiss the case against him on the ground that no preliminary investigation was conducted against him prior to the filing of the information, [5] but his motion to dismiss was denied for the reason that he did not file said motion to dismiss before he entered his plea so that he was deemed to have waived it. [6] Trial of the case then proceeded against Alexander Spandonis who denied that the marijuana leaves found in the possession of his co-accused Ronaldo Jomao-as by NARCOM agents in a "buy-bust" operation of 29 June 1985 came from him since he was not in the business of selling marijuana, and that on 29 June 1985 he was at Ecoland, painting the house of his sister. He further stated that his

co-accused may have pointed to him as the source of the marijuana leaves because of the grudge Ronaldo Jomao-as had against him as a result of an altercation between them a month before, in May 1985, when he refused to give money to Jomao-as with which to buy some drinks.[7] The trial court gave no credence to his defense.

In support of his appeal, the appellant Alexander Spandonis, through counsel, claims that the trial court erred: (1) in giving credence to the testimony of his co-accused Ronaldo Jomao-as, and that of Joseph Cagas who had been accused of violation of the Dangerous Drugs Act in another case; and (2) in not dismissing the case for lack of preliminary investigation.

While the rule is that great weight and respect should be accorded to the trial court's findings, the severity and harshness of the penalty imposed by law on violators of the Dangerous Drugs Act (Rep. Act No. 6425, as amended) calls for a meticulous evaluation of the evidence whether incriminating or exculpating an accused.[8] The Court has also said that "Courts must be extra vigilant in trying drug charges lest an innocent person is made to suffer unusually severe penalties for drug offenses." [9]

We have gone over the records of the case and find that the evidence presented by the prosecution is not sufficient to support a conviction. It would appear that the trial court relied mainly, if not entirely, on the uncorroborated testimony of the co-accused Ronaldo Jomao-as in finding the appellant Alexander Spandonis guilty of the offense charged. In fact, without the testimony of the said Ronaldo Jomao-as implicating the appellant, the latter would have been acquitted, as there is no other evidence that would link the appellant to the marijuana leaves found in the possession of the said Ronaldo Jomao-as during the "buy-bust" operation conducted by NARCOM agents on 29 June 1985. While there may be no law which requires that the testimony of a witness has to be corroborated, except in treason where the testimony of at least two (2) witnesses is needed to prove the same overt act, it has been held that the testimony of a self-confessed accomplice or co-conspirator imputing the blame to or implicating his co-accused cannot, by itself and without corroboration, be considered as proof to a moral certainty that the latter committed or participated in the commission of the crime; it is required that the testimony be substantially corroborated by other evidence in all its material points.[10]

We cannot consider the testimony of Joseph Cagas that he got from the appellant the marijuana leaves confiscated from him by NARCOM agents in a "buy-bust" operation conducted on 9 July 1985, to be corroborative of the testimony of Ronaldo Jomao-as because it appears to be incompatible with the testimony of another prosecution witness on a material point and, therefore, unreliable. Sgt. Adilhaman Asnawi, a member of the NARCOM team which arrested Ronaldo Jomao-as during the "buy-bust" operation on 29 June 1985, declared that his commanding officer decided to have a close surveillance on the appellant Alexander Spandonis after Ronaldo Jomao-as had told them that he (Jomao-as) got the marijuana leaves from the appellant.[11] There being a "close surveillance" on the appellant, it was to be expected that, at least, a report be made on every transaction subsequently entered into by the appellant and a buyer, or that the buyer be arrested together with the appellant. But it would appear that Cagas was not arrested together with the appellant. Nor was a report made on the transaction entered into by them. In fact, the appellant was not included in the criminal case filed against Joseph Cagas. It is thus possible that Joseph Cagas was not telling the truth when he said that he got marijuana leaves from the appellant on 9 July 1985.

The testimony of Ronaldo Jomao-as, coming from a polluted source without being corroborated in its material points by other evidence, is not, therefore, sufficient to convict the appellant of the offense with which he is charged. Accordingly, the acquittal of the appellant is called for.

In view of the foregoing, we no longer find it necessary to discuss the procedural issue raised by the appellant in

his brief that the case should be dismissed for the additional ground of lack of preliminary investigation.

WHEREFORE, the judgment appealed from is hereby REVERSED and SET ASIDE and another one entered acquitting the appellant Alexander Spandonis, on reasonable doubt, from the charge against him. With costs de oficio.

**SO ORDERED.**

Melencio-Herrera, (Chairman), Paras, Sarmiento, and Regalado, JJ., concur.

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[1] Original Record, p. 140

[2] tsn of January 21, 1986, p. 3; tsn of January 31, 1986, p. 45

[3] Original Record, p. 1

[4] Id., p. 74

[5] Id., p. 24

[6] Id., p. 45

[7] tsn of April 15, 1986, pp. 87, 89, 93

[8] People vs. Rualo, G.R. No. 70287, July 31, 1987, 152 SCRA 635

[9] People vs. Sahagun, G.R. No. 62024, February 12, 1990, citing People vs. Taruc, G.R. No. 74655, January 20, 1988 157 SCRA 178

[10] Barretto vs. Sandiganbayan, G.R. Nos. 57333-37, September 16, 1986, 144 SCRA 176

[11] tsn of January 31, 1986, p. 48

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