

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALLAN RODRIGUEZ Y TEVES, ACCUSED-APPELLANT.

G.R. No. 81332. April 25, 1989

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is an appeal from the amended decision of the Regional Trial Court of Makati, Branch 136 finding the accused Allan Rodriguez y Teves guilty beyond reasonable doubt of violating Section 4, Article II of R.A. 6425 (Dangerous Drugs Act), and sentencing him to suffer the penalty of life imprisonment and to pay a fine of twenty thousand pesos (P20,000.00).

The information filed against the accused alleged:

"That on or about the 2nd day of, June, 1987 in the Municipality of Makati, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, while in possession of two (2) tea bags of dried marijuana leaves, did then and there, willfully, unlawfully and feloniously give away, distribute and sell, without being authorized by law, three (3) sticks of marijuana cigarettes, which are prohibited drug.

"Contrary to law." (Rollo, p. 13)

The prosecution evidence upon which the trial court based its finding of guilt beyond reasonable doubt is summarized by the court as follows:

"Pat. Marvin Pajilan has been a Makati Policeman since August 1980 and that presently he is assigned to the DDES as Field Operative. He reported for work on June 2, 1987. His tour of duty on that date was from 2:00 p.m. to 11:00 p.m. At around 6:30 p.m. on said date DDES received a phone call from the desk officer of Sub-Station I, namely, Michael Orbeta, who informed that a person named "Alyas Allan" was selling marijuana at No. 8199 Constancia St., Makati, Metro Manila and requested that said person be apprehended. Acting on this phone call of desk officer Michael Orbeta, a team of policemen headed by Cpl. Laboriante was formed and dispatched to Constancia St. The members of this team aside from Cpl. Laboriante were Pat. Pajilan, Pfc. Romeo Espaldon and Det. Robert del Prado.

"The team of Cpl. Laboriante reached Constancia St. at around 6:40 p.m. on same date. Immediately, they strategically posted themselves about 10 to 15 meters from the house located at 8199 Constancia St., Makati. At around 6:50 p.m. they saw a tricycle with 3 persons on board, a driver and 2 passengers, stop in front of the house at 8199 Constancia St. They also saw a male person come out of the said house and approach and talk to the driver of the tricycle. After a while they saw the male person go back to the house and a little later come back and hand to the tricycle driver 'a suspicious stuff' of 'a cigarette, a marijuana cigarette', (p.3, t.s.n. hearing of Oct. 12, 1987); they further saw the tricycle driver in turn give something to the male person. Thereupon, Pat. Pajilan, together with his companions, approached the male person and the tricycle driver and after introducing themselves as police officers, they asked the male person, the tricycle driver and his 2 passengers to bring out the contents of their pockets, which the male person, the driver and the passengers of the tricycle did. The male person brought out from his pockets 2 small plastic bags containing suspected

marijuana leaves. The tricycle driver, brought out from his right front pocket 3 sticks of suspected marijuana cigarettes. Nothing illegal was found in the pockets of the 2 passengers of the tricycle.

"The male person who came out from the house located at 8199 Constanca St. was later identified to be Allan Rodriguez y Teves, the accused in this case, while the tricycle driver turned out to be one Enrico Bacod.

"After the accused and Enrico Bacod had brought out the contents of their pockets, the DDES team brought them to the Makati Police Headquarters where they turned over the two (the 2 passengers were released for lack evidence) to Det. Hermi Ortiz, the police investigator on duty, for further verification. They also turned over to Det. Ortiz the aforementioned items which the accused and Enrico Bacod had brought out from their pockets. The said items were thereafter referred to the NBI for laboratory examination, where, after the corresponding examinations they were confirmed to be positive for marijuana.

"In the same occasion, Cpl. Laborante, in the presence of Pat. Pajilan, prepared an affidavit of arrest (Exhibit A) for Pat. Pajilan which the latter signed (Exh. A-1).

"In the hearing of October 12, 1987, the Trial Fiscal and the defense counsel made the following stipulations/admissions?

"The Trial Fiscal then informed that his next witnesses would be Det. Hermie Ortiz, the police investigator who investigated this case and the NBI Forensic Chemist, Aida Villoria Magsipok. He manifested that he would likewise dispense with the testimonies of these witnesses if the defense would admit/agree to the following:

'A That Det. Ortiz in connection with this case had prepared and filed an investigation report. The Trial Fiscal proposed that the defense admit the genuineness, due execution and the truth of the contents of this investigation report which was marked Exhibit B for the prosecution. The defense counsel admits all of the above matters/facts proposed for admission by the Trial Fiscal. In fact the defense counsel adopted Exhibit B and had it marked as Exhibit "1" for the defense.

'B The due execution and genuineness of the report marked Exhibit "B" submitted by the Forensic Chemist, Aida Villoria Magsipok, of the NBI, and her certification, Exhibit D. The defense admits these.

'C That Chemist Aida Villoria Magsipok had in fact conducted laboratory examinations of the specimens referred to in her report Exhibit 'E' and that the said specimens were the same items transmitted to her office by the police per the letter request marked Exhibit 'C', and that it is the finding of the Forensic Chemist that the said specimens are positive for marijuana. The defense admits all of these.

'D That the items or specimens subject of the letter request of the police marked Exhibit 'C', and of the Forensic Report, marked Exhibit E and certification, Exhibit D, are the same items confiscated from the accused as testified to by Det. Marvin Pajilan this morning. The defense admits all these.

"E That the defendants waive the presentation or production of the specimens or items that were examined by Forensic Chemist Aida Villoria Magsipok and which were subject of the examinations referred to in Exhibit E. The defense waives his right to be confronted with the said items or specimens." (pp. 1-3, Order of October 12, 1987)

"After concluding the presentation of his evidence, the Trial Fiscal formally offered his documentary exhibits, namely, Exhibits "A" & "A-1", which is the affidavit of Pat. Marvin Pajilan; Exhibit "B" (also marked Exhibit 1 for the defense), which is the final investigation report of Det. Hermie Ortiz; Exhibit "C", which is the letter-request for laboratory examination dated June 2, 1987 made by Pat. Roberto del Prado addressed to the Director of NBI; and Exhibit "D", which is the certification dated June 3, 1987 executed by NBI Forensic Chemist Aida R. Villoria-Magsipok. The defense counsel objected to Exhibits "A" and "A-1" on the ground that the same is self-serving but offered no objection to the admission of Exhibit "B", "C" & "D". The Court

admitted Exhibits "A" and "A-1" as part of the testimony of Pat. Pajilan. It also admitted Exhibits B, C and D there being no objection to their admission." (Rollo, pp.14-18).

The accused raises the following assignment of errors in this appeal, to wit:

I

"THE COURT A QUO ERRED IN GIVING WEIGHT AND CREDENCE TO THE TESTIMONY OF PAT. MARVIN PAJILAN WITHOUT CONSIDERING THE EVIDENCES OF THE DEFENSE.

II

"THE COURT A QUO ERRED IN NOT CONSIDERING THAT THE ARREST OF THE ACCUSED-APPELLANT IS UNLAWFUL.

II

"THE COURT A QUO ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF VIOLATION OF SECTION 4, ARTICLE II, REPUBLIC ACT 6425, AS AMENDED, DESPITE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT." (Rollo, pp. 39-40)

The assigned errors center on the credibility of the witnesses. We have carefully reviewed the records of the case and we are convinced that the illegal sale of marijuana by the appellant was committed as narrated by the prosecution witnesses.

It is well-settled in our jurisdiction that where the issue is one of credibility of witnesses, appellate courts give great weight to the findings of fact by the trial courts as they are in a better position of examining real evidence, as well as observing the demeanor of the witnesses. (People v. Abonada, G.R. No. 50041, January 27, 1989; People v. Pedrona, G.R. No. 56457, January 27, 1989; People v. Basiga, G.R. No. 47425, January 13, 1989).

The appellant contends that the police officers had no personal knowledge that he was indeed handing marijuana to Enrico Bacod as they were 10-15 meters away from the alleged sale transaction. The arrest therefore was not valid as the requirements for a warrantless arrest were not complied with.

The contention is without merit.

As held in the case of People v. Paco, G.R. No. 76893, February 27, 1989:

"xxx However, the warrantless arrest made by the law enforcers was valid since it falls under the provisions of Rule 113, Sec. 5(a) of the Rules of Court which provides:

"Sec. 5 Arrest without warrant; when lawful. A peace officer or a private person may, without a warrant, arrest a person:

(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;

xxx xxx xxx

Having caught the appellant in flagrante as a result of the buy-bust operation, the policemen were not only authorized but were also under obligation to apprehend the drug pusher even without a warrant of arrest."

The police officers were tipped off by an informer about the illegal trade of the accused. The exact location where this trading in drugs was taking place was given to them. The 'suspicious stuff' taken from the accused were

confirmed to be marijuana after tests were conducted on them.

The attendant circumstances taking place before their eyes led the police officers to reasonably conclude that an offense was actually being committed.

The appellant next contends that the money allegedly paid to him in exchange for the marijuana was not offered in evidence. As such the sale could not be proved.

This Court had the opportunity to rule on this issue recently in the case of *People v. Tejada*, G.R. No. 81520, February 21, 1989:

"xxx The fact that the appellant returned with the Amount of marijuana corresponding to the offered price suffices to constitute if not sale, then delivery or giving away to another and distribution of the prohibited drug punishable under Section 4, Article II of Rep. Act 6425. xxx

xxx xxx xxx

So long as the marijuana actually given by the appellant was presented before the lower court, the absence of the marked money does not create a hiatus in the prosecution evidence."

The appellant alleges that he would not ply such a trade "in his own home and for a pittance of only P10.00 that he would heedlessly risk discovery, denunciation or imposition of at least a life term."

This Court has held in the case of *People v. Paco*, *supra*:

"Drug-pushing when done on a small level as in this case belongs to that class of crimes that may be committed at anytime and at any place. After the offer to buy is accepted and the exchange is made, the illegal transaction is completed in a few minutes. The fact that the parties are in a public place and in the presence of other people may not always discourage them from pursuing their illegal trade as these factors may even serve to camouflage the same."

The appellant next argues that it is not a common experience that a drug pusher would unhesitatingly make an illicit transaction with a person he was meeting for the first time and in full view of his neighbors.

Once more citing the case of *People v. Tejada*, *supra*:

"The circumstances surrounding the sale even served to conceal the fact that prohibited drugs were being sold as people will not usually mind dealings where there is no sign of furtiveness or misbehavior.

xxx xxx xxx

Moreover, what matters is not an existing familiarity between the buyer and seller but their agreement and the acts constituting the sale and delivery of the marijuana leaves."

The accused's evidence consists of mere denials which constitute self-serving negative evidence. Thus, these denials cannot be given greater evidentiary weight than the declaration of credible witnesses who testify on affirmative matters. (*People v. Abonada*, *supra*).

Moreover, no ill motives were imputed to the prosecution witnesses who happened to be police officers. They are presumed to have regularly performed their duty in the absence of proof to the contrary. Their testimonies therefore deserve full faith and credit. (*People v. Alvarez*, G.R. No. 70446, January 31, 1989; *People v. Tejada*, *supra*). There is likewise no question from the records that the plastic bags taken from the accused-appellant contained marijuana leaves and the sticks of cigarettes he gave to the tricycle driver were marijuana cigarettes.

WHEREFORE, in view of the foregoing, the amended decision appealed from is hereby AFFIRMED.

SO ORDERED.

Fernan, C.J., (Chairman), Feliciano, Bidin, and Cortes, JJ., concur.

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