

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMEO ORTIZ Y BALLARES, ACCUSED-APPELLANT.*G.R. No. 82115. December 03, 1990*

Ponente: CRUZ, J.

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The accused-appellant was convicted of selling marijuana in violation of the Dangerous Drugs Act and sentenced to life imprisonment plus a P20,000.00 fine. He asks for a reversal on the ground that he was the victim of frame-up and an unsuccessful extortion attempt.

According to the evidence of the prosecution, the Narcotics Command Unit in Calamba, Laguna, having received information that a certain Meo, later identified as Romeo Ortiz, was selling marijuana in Canlubang, organized a buy-bust team for his apprehension. The team consisted of Sgt. Arnel Angsioco as leader and CIC Edgar Groyon, Sgt. Agaton Enriguez and Pat. Heidi Zulueta as members. The operation was scheduled on June 26, 1985, and was duly recorded in the station log book. So was the serial number of the P20.00 to be used for the pretended purchase, which was delivered by Major Vivencio Ramilo, the Unit Commander, to Angsioco. The latter marked it by dotting the nose on the picture of President Quezon, then gave it to Groyon, who was to pose as the buyer. As a routinary precaution, Ramilo made sure before they left that none of the team members was carrying any marijuana.[1]

The team arrived at the Labor Hall in Canlubang, Laguna, at about 9:15 in the morning and waited for their informer. Upon his arrival, the operation began. The informer, at Groyon's bidding, went to Ortiz and told him Groyon was looking for marijuana. The informer returned to Groyon to tell him that Ortiz was willing to sell. Groyon then approached Ortiz and gave him the marked bill in exchange for which Ortiz handed him two tea bags. At this juncture, Groyon gave the pre-arranged signal by touching his hair. Angsioco and Zulueta, who were at the time about four to eight meters away, pounced upon Ortiz and arrested him after introducing themselves as peace officers. After initial resistance, Ortiz submitted. The team recovered the marked bill and confiscated the tea bags. Ortiz was later taken to the police station for interrogation. The tea bags were sealed in a letter envelope initialed by Groyon, Angsioco and Zulueta and sent to the National Bureau of Investigation, where they were subjected to microscopic and chemical and chromatographic examination. The contents were found to be marijuana.

Groyon and Ramilo testified on the details of the buy-bust operation, while the results of the laboratory examination were reported under oath by Carolyn Custodio, supervisor and research biologist of the NBI Forensic Chemistry Section. The P20.00 bill and the tea bags were among the exhibits submitted by the prosecution.[2]

For his part, the accused-appellant entered a flat denial, insisting that he was playing billiards at the Labor Hall that morning when Angsioco, accompanied by Groyon and another man, suddenly approached him and clamped handcuffs on his wrist. Angsioco then put his closed hand inside Ortiz's pocket and pretended to draw out a P20.00 bill. The accused-appellant claims he was dragged to a car and told he was under arrest for pushing

marijuana ("Nagtutulak ka ng damo.") On their way to Narcom headquarters, Groyon offered to drop the charge against him if he agreed to pay them P3,000.00. Ortiz says he demurred, protesting he had no money and had not committed any offense. Groyon's reaction was to box him several times in the chest. The accused-appellant said he was detained at the headquarters for three days before he was taken to the municipal jail.[3]

Assessing the conflicting evidence of the parties, Judge Odilon I. Bautista of the Regional Trial Court of Laguna opted in favor of the prosecution. The issues being mainly factual, we defer to the findings of the trial judge, who had the opportunity to directly observe the witnesses on the stand and to assess their credibility, not only by the manner of their testimony but also by the plausibility of the testimony itself.

The accused-appellant submits that the prosecution version of the incident is not believable as he would not have sold the prohibited drugs to a total stranger and at such a public place as a billiard hall. He also faults the testimonies of the prosecution witnesses and cites certain inconsistencies therein that he claims have rendered their veracity suspect. It is also his contention that his arrest and search were unconstitutional, having been effected without warrant in violation of the Bill of Rights.

The accused-appellant was not exactly dealing with a total stranger as he was negotiating the sale through the informer, who apparently had his confidence. The site of the sale was not that antiseptic, so to speak, as it was a billiard hall, where shady transactions are not unheard of or even unusual among the habitués of the place. As for the alleged contradictions of the prosecution witnesses, we have repeatedly held that minor discrepancies do not necessarily vitiate the essential veracity of testimony and in fact may even contribute to its credibility. A witness cannot be expected to narrate past incidents with perfect recall. Also, there is no evidence at all of the accused-appellant's claim of manhandling, which he did not complain about to the fiscal who investigated him or to any physician who could have given him the proper treatment and the corresponding medical certificate. We also find that he failed to prove the alleged extortion attempt, which does not square with the fact that the buy-bust operation was previously recorded in the log book.

Ortiz's submission that he was subjected to an illegal search and seizure is not acceptable. The demonstrated facts are that he was arrested in flagrante and so came under the exception to the rule requiring previous obtention of a warrant to justify a search or seizure. Rule 113, Section 5, provides that a peace officer or indeed even a private person may, without warrant, arrest a person who, "in his presence, has committed, is actually committing or is attempting to commit an offense." In these circumstances, a search may also be made without warrant, being incidental to a lawful arrest. Articles seized as a result of such lawful search are admissible in evidence.

The person accused of an offense is entitled to the constitutional presumption of innocence but this right may be offset by proof of his guilt beyond reasonable doubt. That proof has been established in the case at bar. We are convinced from the evidence before us that the accused-appellant did sell the marijuana to the narcotics team on the day in question and so violated Section 4 of the Dangerous Drugs Act. For contributing to the spread of drug addiction, which is exacting a heavy toll on the lives and future of our people, he is justly punished.

WHEREFORE, the challenged decision is AFFIRMED and the appeal dismissed. It so ordered.

Narvasa, (Chairman), Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] Rollo, p. 32.

[2] Ibid., pp. 32-33.

[3] TSN, December 2, 1986, pp. 232-239; Ibid., December 18, 1986, pp. 261-268.

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