

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF, VS. ERNESTO YABUT Y TORRES, DEFENDANT.

G.R. No. 82263. June 26, 1992

Ponente: PADILLA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-82263/>

PADILLA, J.:

This is an appeal from the decision of the Regional Trial Court of Valenzuela, Metro Manila (Br. 172)* finding the accused guilty of violating Republic Act No. 6425, as amended, otherwise known as the Dangerous Drugs Act of 1972, and sentencing him to life imprisonment and payment of the prescribed fine of Twenty Thousand Pesos (P20,000.00).

The information filed by Assistant Provincial Fiscal Benjamin Aquino, Jr., against the accused reads as follows:

"That on or about the 8th day of April 1986, in the municipality of Valenzuela, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, together with Luis Alejandrino who is still at large, without authority of law or any legal justification, and while in possession and control of one (1) tea bag of marijuana dried leaves, did then and there wilfully, unlawfully and feloniously sell, dispose of and deliver the said marijuana dried leaves to another person knowing fully well the same to constitute a prohibited and dangerous drug."

Upon arraignment, the accused entered a plea of not guilty. Trial thereupon commenced. To prove the merits of its case, the prosecution presented the testimonial evidence of the arresting officer, S/Sgt. Pablito Reyno of the Philippine Constabulary and Daisy Babor, Forensic Chemist of the PC Crime Laboratory based in Camp Olivas, Pampanga.

The prosecution alleges that on 8 April 1985 at about 5:00 p.m., a civilian informant went to Camp Olivas, Pampanga to report on the alleged drug trafficking activities of the accused-appellant Yabut and his co-accused Alejandrino at Pulo, Palayan, Valenzuela, Metro Manila. Upon evaluating the information, recounts the prosecution witness Reyno, he formed a team composed of S/Sgt. Ruben Bazar, Sgt. Venusto Homisulamin, two (2) FMIB agents, and himself, and together with the informant, they proceeded to the reported site of the illegal activity to conduct a buy-bust operation designed to entrap the accused-appellant and Alejandrino. Bazar was designated to act as poseur-buyer.

Upon arrival at Pulo, Bazar and the civilian informant were allegedly met by the appellant and brought to the house of Luis "Gigi" Alejandrino who met them there. From a distance of twenty (20) meters, witness Reyno, who had positioned himself at the corner of the entrance of the alley leading to Alejandrino's house, saw Bazar talk to Alejandrino after which the latter handed over one plastic bag of marijuana to Bazar who in turn gave a marked ten-peso bill to the appellant as payment for the drug. Thereupon, Bazar gave the pre-arranged handsignal and Reyno proceeded to arrest the appellant and recovered from him the marked money. The team thereafter brought accused-appellant to Camp Olivas.

The tea bag, also recovered from the scene, was subsequently submitted for examination to the witness Daisy

Babor whose tests confirmed the same to be the prohibited substance of marijuana.

In his defense, the accused-appellant alleged that during the night and hour in question, he was standing by the house of his co-accused Alejandrino, chatting with the latter who was looking out from his window. During their conversation, a group of four (4) men arrived, looking for Alejandrino and expressing the desire to buy marijuana. Alejandrino however said he had nothing to sell and thereafter went to the inner portion of his house. Accused-appellant further alleged that since the group's efforts, insofar as Alejandrino was concerned, had been thwarted, he (appellant) then became the focus of their attention and was subjected to a search of his person; and thereafter he was brought blindfolded to Camp Olivas. There, he was confronted with a tea bag of marijuana, but he denied any knowledge as to the same, as well as having received P10.00 from Sgt. Bazar.

As earlier stated, the trial court found the accused's guilt to have been established beyond reasonable doubt, and accordingly imposed sentence on him.

In support of the present appeal, the accused-appellant raises the following errors of the court a quo:

I

The trial court erred in not considering the non-presentation of Sgt. Ruben Bazar, the alleged poseur-buyer to the witness stand as a fatal flaw to the cause of the prosecution.

II

The trial court erred in giving full faith and credence to the testimony of S/Sgt. Pablito Reyno.

III

The trial court gravely erred in finding the accused guilty beyond reasonable doubt of the crime charged in the information.

This Court finds for the accused-appellant.

Well-established is the rule that when the inculpatory facts and circumstances are capable of two (2) or more explanations, one of which is consistent with the innocence of the accused and the other consistent with his guilt, then the evidence does not fulfill the test of moral certainty and is not sufficient to support a conviction.^[1] In the present case, accused-appellant's version of the circumstances leading to his apprehension constitutes a total denial of the prosecution's allegations. In this regard, this Court has ruled that when there is such a divergence of accounts?

"it becomes incumbent upon the prosecution to rebut appellant's allegations by presenting xxx xxx the alleged poseur-buyer. This it failed to do, giving rise to the presumption that evidence willfully suppressed would be adverse if produced. (Rule 131, Sec. 5[e]). This failure constitutes a total flaw in the prosecution's evidence since the so-called informant who was never presented as a witness and never identified, is the best witness for the prosecution. xxx "[2] (emphasis supplied)

Who would have been the best witness for the prosecution? According to the prosecution's own version, Sgt. Bazar, being the alleged poseur-buyer, was the only person who could definitely and categorically attest to the circumstances surrounding the arrest of the accused-appellant. He was the one who transacted with the latter and he was the one who allegedly exchanged a marked P10.00 bill for a tea bag of marijuana. In short, he could have provided the most accurate account of the case. Yet, he was not presented as a witness by the prosecution, and his failure to testify remains unexplained. In such a situation, *People vs. De Guzman*^[3] is enlightening where this

Court said:

"The court can only wonder why the prosecution did not present Querubin, who allegedly bought the marijuana from de Guzman and paid him the marked money. xxx xxx It is true that each party has the discretion to plot its own strategy, as we have said often enough in many cases, but under the circumstances of this particular case the choice by the prosecution of its witnesses was less than tactical. Querubin was the best witness to narrate the transaction; Bazar could at best only corroborate. xxx xxx.

The prosecution suggests that if the defense really felt that Querubin would advance its cause, there was nothing to prevent it from calling him as its own witness, as it had a right to do under the Bill of Rights and the Rules of Court. It forgets however, that it was the obligation of the prosecution to prove its allegations, not of the defense to disprove them. Bazar's testimony against de Guzman being insufficient to convict, it was incumbent on the prosecution to bolster its case by calling Querubin to the stand."

Anent the court a quo's imputed error of giving credence to the testimony of Sgt. Reyno, this Court's own examination of the record shows that Reyno was positioned some twenty (20) meters away from where Bazar, Alejandrino and the accused were supposed to be transacting the purchase of the prohibited substance. At that distance, considering the lateness of the hour and with no indication that the surrounding area was illuminated in any way, it becomes reasonable to doubt that Reyno actually saw what he testified to have seen. It is a truism that evidence to be believed must not only proceed from the mouth of credible witnesses (which is itself already in doubt in this instance) but must be credible in itself.[4] No better test has yet been found to measure the value and weight of a witness' testimony than its conformity to the knowledge and common experience of mankind.[5] The Court, therefore, cannot give such testimony of Reyno the same credence as the trial court gave to it, despite the entrenched rule that accords great weight to trial court's findings of fact. In the situation at bar, the exception to the rule is in order, in the same way that exceptions to such rule have been recognized by this Court (1) when the conclusion is a finding based entirely on speculation; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) where there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; and (5) when the court, in making its findings, went beyond the issues of the case and the same are contrary to the admissions of both the appellant and appellee.[6] It is significant to point out that even the Solicitor-General, as counsel for the appellee, recommends the acquittal of the accused-appellant.

Considering the above discussion, the third assigned error requires no further elucidation. One final question, however, remains which further clouds the veracity of the prosecution's version. This has to do with appellant's co-accused who, according to the Information, remains at large. As alleged by the prosecution, said co-accused (Alejandrino) was with the accused-appellant and Bazar during the alleged transaction, yet, when the police operatives moved in to arrest the accused, co-accused Alejandrino appears to have been ignored. Was he arrested but was able to escape, or did he escape immediately? On the other hand, was he even there in the first place? This appears to be the more likely situation, given the version of the accused-appellant who had testified that after Alejandrino's avowal that he had no marijuana to sell, he retreated to the inner portion of his house. This detail appears to have been suppressed by the prosecution or overlooked by the court a quo, yet, it remains quite a damaging indication that the case of the prosecution is tainted with misrepresentations, if not contrived incidents.

This is again an occasion to remind law enforcement authorities, particularly the rank and file thereof, to be more circumspect in the undertaking of anti-narcotics operations, conducted mostly through the use of civilian informants and buyer-poseurs, where abuse, harassment, and yes, mistake is more than possible. It is perhaps time to take the hierarchy of our police officials to task, for this is not the first time that these entrapment procedures have been revealed to be a little more than plain police misrepresentation to cover up incompetence or corruption.

WHEREFORE, premises considered, the appealed decision is hereby REVERSED and the accused-appellant is ACQUITTED on reasonable doubt.

SO ORDERED.

Narvasa, C.J., (Chairman), Paras, Regalado, and Nocon, JJ., concur.

* Judge Teresita Dizon-Capulong, presiding.

[1] People vs. Taruc, G.R. No. 74655, 20 January 1988, 157 SCRA 178

[2] People vs. Salcedo, G.R. No. 86975, 18 March 1991, 195 SCRA 345

[3] G.R. No. 86172, 4 March 1991, 194 SCRA 601

[4] People vs. Dimacili, G.R. No. 68036, 31 August 1987 153 SCRA 454

[5] People vs. Baquiran, L-20153, 29 June 1967, 20 SCRA 451

[6] People vs. Taruc, supra

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.