

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MODESTO LAMOG Y CUTAY, COLASA ALIGA Y CABBHEY, FLORENCE SACUCHANG Y KIOWA, ACCUSED-APPELLANT.

G.R. No. 82373. April 17, 1989

Ponente: GRIÑO-AQUINO, J.

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GRIÑO-AQUINO, J.:

Appellants seek a reversal of the decision dated September 9, 1987 of the Regional Trial Court of Baguio City, Branch V, finding them guilty of violation of the Dangerous Drugs Act. The dispositive portion of the decision reads:

WHEREFORE, the Court finds and declares the accused MODESTO LAMOG y CUTAY guilty beyond reasonable doubt of the crime of attempted illegal sale of marijuana, pursuant to Section 4 in relation to Section 21 (b) of R.A. No. 6425, otherwise known as the Dangerous Drugs Act, as amended, hereby sentences him to suffer LIFE IMPRISONMENT; to pay a fine of P20,000.00, without subsidiary imprisonment in case of insolvency; and to pay his proportionate share in the costs. In the service of his sentence, the said accused shall be credited with his preventive imprisonment under the terms and conditions prescribed in Article 29 of the Revised Penal Code, as amended.

"On the other hand, the accused COLASA ALIGA y CABBHEY and FLORENCE SACUCHANG y KIOWA are hereby found guilty beyond reasonable doubt of the lesser offense of illegal possession of marijuana and hereby sentences EACH of them to suffer an indeterminate Imprisonment ranging from SIX (6) YEARS and ONE(1) DAY, as minimum, to EIGHT (8) YEARS, as maximum; to pay a fine of P6,000.00, without subsidiary imprisonment in case of insolvency; and to pay their proportionate shares in the costs. In the service of their sentence, these accused shall also be credited with their preventive imprisonment, under the terms and conditions prescribed in Article 29 of the Revised. Penal Code, as amended.

"The confiscated marijuana (Exhibits 'B-1' to 'B-13'), together with their container (Exhibit 'B'), are hereby declared forfeited in favor of the Government, and upon the finality of this decision, the Branch Clerk of Court is directed to turn over the same to the Dangerous Drugs Custodian (NBI), through the Chief, PC Crime Laboratory, Regional Unit No. 1, Camp Dangwa, La Trinidad, Benguet, for disposition in accordance with law." (Emphasis supplied.) (pp. 6-7, Decision, pp. 15-21, Rollo.)

The information charged all the accused as co-conspirators in selling marijuana in violation of Section 4, Article II of Republic Act 6425, as amended, committed as follows:

"That on or about the 21st day of January, 1986, in the City of Baguio, Philippines, and within the Jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping, one another, without any authority and/or license, did then and there wilfully, unlawfully and feloniously sell and distribute about thirteen (13) kilos of dried marijuana leaves/flowering tops to one CIC Oscar Parajas, PC Poseur-buyer, knowing fully well that said marijuana leaves/flowering tops are prohibited drugs, in violation of the above-mentioned provision of law.

"Contrary to law." (p. 12, Rollo.)

All the accused pleaded not guilty to the charge.

The facts, as established by the evidence and summarized by the trial court in its decision, are:

"From the testimonies of CIC Oscar Parajas, Sgt. Godofredo Fider and Pat. Maximiniano Peralta, all members of the First Narcotics Regional Unit of the Narcotics Command stationed in Baguio City (See Exhibit 'D'), it appears that on January 21, 1986, they, together with A2C Freddie Cartel, were constituted into a team by their Deputy Commanding Officer, Lt. Efren Yebra, to conduct an entrapment operation against the accused Modesto Lamog who had been denounced earlier in the morning of that day by a confidential informer as a marijuana pusher. CIC Parajas was to pose as a buyer of the stuff while the others would be his back-up.

"At about 8:00 o'clock that same morning, Parajas and the informer proceeded to the Baguio Slaughterhouse Compound, where Lamog could be found at the time. True enough, they came upon Lamog in front of the Rosario Restaurant. The informer introduced Parajas as an interested marijuana buyer to Lamog. (In his direct examination, Parajas stated that he was alone in meeting Lamog at the Slaughterhouse Compound but he corrected himself on cross-examination by saying that the informer was with him). In any event, Lamog asked Parajas how much marijuana he needed, and the latter answered ten (10) kilos. Lamog then invited Parajas to go with him to Holy Ghost Hill Extension to get the stuff. They rode in a taxicab with the informer tagging along. On the way, Lamog quoted the price of P600.00 per kilo. Parajas tried to bargain but Lamog did not relent.

"While still at the Slaughterhouse Compound, the members of Parajas' back-up team deployed themselves around the vicinity and observed the meeting between Parajas and Lamog through the intercession of the informer. Then, they followed Parajas to Holy Ghost Hill Extension.

"At Holy Ghost Hill Extension, Lamog led Parajas and the informer to the house of co-accused Colasa Aliga. Lamog talked with Colasa and the latter let Parajas and the Informer inside. Colasa said that she had with her only two (2) kilos of marijuana but that their co-accused Florence Sacuchang, who lived next door, had some more of the stuff. Thereupon, Lamog left and momentarily returned with Florence who brought along with her eleven (11) kilos more of marijuana but Lamog said that he needed only ten (10) kilos. When payment was demanded, Parajas merely flashed to them the entrapment money and thereafter, gave the pre-arranged signal to the members of the back-up team, who by then were already around the premises, to close in.

"Lamog, Colasa and Florence were arrested and the marijuana they were selling in thirteen (13) bundles (Exhibits 'B-1' to 'B-13'), including the blue plastic sack container (Exhibit 'B') were confiscated.

"Another person, who was then also inside the house of Colasa helping in the sale of the marijuana, ran away when the arrests were effected. Parajas tried to stop him by firing a shot into the air but he did not pay heed and instead lost himself into the neighborhood.

"Subsequently, the confiscated items (Exhibits 'B-1' to 'B-13') were referred to the PC Crime Laboratory, Regional Unit I, for chemical analysis (Exhibit 'A'), and Forensic Chemist Carlos V. Figueroa determined that the specimens, with an aggregate weight of 12.6 kilos, were positive to the standard tests for marijuana (Exhibit 'C')." (RTC Decision, pp. 15-16, Rollo.)

Lamog's version was that on January 21, 1986 he was asked by his wife Romana to get three kilos of meat which she had ordered from a butcher named Nato who lived near the Slaughterhouse Compound. When he reached Nato's house, he saw three men drinking coffee inside the house. He asked for Nato. One of the men introduced himself as Nato. He told Nato of his errand and after paying him P96 for three kilos of meat, supposedly priced at P34 per kilo, he mentioned that he was going to Holy Ghost Hill Extension. Nato suggested that he ride with him and his companions because they were also going that way. They all rode in a taxicab.

Upon reaching Holy Ghost Hill Extension, Lamog alighted in front of a store and bought cigarettes. He intended to go to the house of his friend William Pandagos, to whom he was to deliver one kilo of meat. He met Pandagos at the curb and they stopped to talk. Momentarily, a blue truck arrived. Three men came out of the truck and went up the road on foot. In a short while, Pandagos and Lamog heard four shots and saw a man chasing another. Lamog recognized the pursuer as one of the men who rode with him and Nato in the taxicab. The man turned out to be Parajas. Parajas was chasing Kampiwele but when he failed to catch him, he returned and picked up two women named Florence and Colasa, followed by Nato who carried a sack and a carton box. They all proceeded to the NARCOM headquarters on Quisumbing Street,

Pandagos corroborated Lamog's testimony.

Florence's story was that on the night of January 20, 1986, a certain Campewer (or Kampiwele?), who was her husband's provincemate, visited them and left a sack in their house which he was supposed to pick up the next day. He returned the next day with two companions, one of whom was the PC soldier, Parajas. It was only then that she learned that the sack left by Campewer contained marijuana.

Colasa averred that she was about to leave her house to buy bottles for resale, when Parajas for no apparent reason, grabbed her hand and took her along with Florence to the NARCOM headquarters.

The trial court gave credence to the prosecution's version of the incident. It dismissed the defense' theory of a frame-up. It found that the peace officers were merely discharging their duty to apprehend violators of the Dangerous Drugs Law, and that they acted without any ill-will or corrupt motive to trump-up a charge against the accused, who were complete strangers to them. It gave scant consideration to Florence's pretense of innocence about the sack of marijuana in her house.

Lamog, denied knowing Colasa Align and Florence Gacuchang. However, both women testified that they, including Lamog and Pandagos, all came from barrio Saclit, Sandanga, and, that they are neighbors in Quirino Hill, Baguio City.

On September 15, 1987, the trial court promulgated a decision finding Lamog guilty of attempted sale of marijuana and the women, of illegal possession of the drug.

All the accused appealed to this Court alleging that the lower court erred in convicting them upon "vague, inconsistent and inaccurate evidence." (p. 10, Rollo)

The trial court did not err in giving credence to the testimonies of the prosecution witnesses rather than to those of the accused. The testimonies of the police officers on the entrapment of the accused were straightforward and entirely credible. On the other hand, the stories of the accused were illogical, improbable, and contradictory.

The appellant failed to show that the police officers were actuated by any improper motive in testifying as they did. Courts generally give full faith and credit to police officers for they are presumed to have performed their duties in a regular manner (Rule 131, Sec. 5[m], Rules of Court; *People vs. Gamayon*, 121 SCRA 642; *People vs. Policarpio*, 158 SCRA 85; *People vs. Patog*, G.R. No. 69620, September 24, 1986; *People vs. Natipravat*, 145 SCRA 483; *People vs. De Jesus*, 145 SCRA 521).

The evidence shows beyond a reasonable doubt that the three (3) accused were partners in crime, or co-principals in the crime of selling marijuana. Lamog was an agent or broker for the two women who supplied him with the prohibited drug for sale to his customers. It maybe noted that when Colasa did not have enough of the stuff in her house, it was Lamog who went next door and came back with Florence who brought with her 11 kilos of marijuana to add to Colasa's stock.

Consequently, We find that it was error for the trial court to have convicted the two women of the lesser offense of possession of prohibited drug, instead of the same crime that Lamog committed - attempted sale of marijuana to the PC undercover agents.

The penalty for the sale of marijuana is life imprisonment to death and a fine ranging from P20,000 to P30,000 (Sec. 4, R.A. 6425, as amended by P.D. 1675). Section 21 of the law further provides:

"SEC. 21. Attempt and Conspiracy. - The Same penalty prescribed by this Act for the commission of the offense shall be imposed in case of any attempt or conspiracy to commit the same in the following cases:

"a) Importation of dangerous drugs;

"b) Sale, administration, delivery, distribution and transportation of dangerous drugs;

"c) Maintenance of a den, dive or resort for prohibited drugs users;

"d) Manufacture of dangerous drugs; and

"e) Cultivation or culture of plants which are sources of prohibited drugs." (Underlining ours.)

The law is severe because those who are caught in the strangle hold of prohibited drugs not only slide into the ranks of the living dead, but, what is worse, they become a grave menace to the safety of the law-abiding members of society. As this Court declared in *People vs. Policarpio*, 158 SCRA 85, "Peddlers of drugs are actually agents of destruction. They deserve no less than the maximum penalty."

WHEREFORE, the appealed decision is affirmed with respect to appellant Modesto Lamog y Cutay, and modified with respect to the appellants Colasa Aliga y Cabbey and Florence Sacuchang y Kiowa whom We find guilty beyond reasonable doubt as co-principals or co-conspirators of their co-accused Lamog in the commission of the crime of attempted illegal sale of marijuana, and We hereby sentence each of them, like Lamog, to suffer the penalty of life imprisonment, to pay a fine of P20,000 without subsidiary imprisonment in case of insolvency, and to pay their proportionate share of the costs. In other respects the decision of the trial court is affirmed. Costs against the appellants.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Medialdea, JJ., concur.

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