

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SUSANA NAPAT-A Y MACABIO, ACCUSED-APPELLANT.*G.R. No. 84951. November 14, 1989*

Ponente: GRIÑO-AQUINO, J.

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The accused-appellant, Susana Napat-a, was convicted of drug-pushing by the Regional Trial Court, Branch VI, Baguio City, and sentenced "to LIFE IMPRISONMENT and to pay a fine of TWENTY THOUSAND (P20,000) PESOS without subsidiary imprisonment in case of insolvency and to pay the costs."

On February 3, 1985, the Narcotics Regional Unit in Baguio City received information that a certain Susana Napat-a was looking for a buyer of marijuana leaves. Acting on this report, Captain Emmanuel Manzano formed a group composed of C1C Leo Quevedo, A2C Serafin Artizona and Pat. Maximiano Peralta, to conduct a buy-bust operation. The group proceeded to the public market on Magsaysay Avenue. There, the informer introduced to the appellant his companion, C1C Leo Quevedo, as an interested buyer of marijuana. Pat. Peralta, who was then posted at a strategic distance, heard Quevedo order three (3) kilos of dried marijuana leaves for the price of P800 per kilo set by Napat-a.

Having closed the deal, the appellant, accompanied by Quevedo and the informer, rode on a jeep to Brookside, Baguio City. Artizona and Peralta took a taxi and followed them. Upon reaching Brookside, Peralta and Artizona posted themselves near a store. They observed Quevedo and the informer standing at the junction of lower and upper Brookside waiting for Susana Napat-a. The latter soon reappeared carrying a brown carton box which she handed to Quevedo who thereupon made the pre-arranged signal. On seeing Quevedo's signal, Peralta and Artizona rushed to the scene. C1C Quevedo held Susana by the arm and placed her under arrest. The three narcotics agents brought her to their office for investigation. Quevedo, Artizona and Peralta, executed a joint affidavit (Exh. H) narrating the circumstances leading to the arrest of the appellant.

The contents of the brown carton box were referred to Lt. Carlos Figueroa, a forensic chemist of the PC Crime Laboratory in Camp Bado Dangwa, for examination. In his Chemistry Report No. D-019-85 (Exh. G), Lt. Figueroa affirmed that a qualitative examination of the specimens taken from the brown carton box showed them to be marijuana.

In her defense, the appellant claimed that she was a vegetable vendor in the market; that on February 3, 1985 at about 10:30 A.M. she went home to Brookside to cook food for her children. On her way back to the city market, she met Naty Doguiwen, who was also a vegetable vendor. Naty Doguiwen was holding a small box. While they were waiting for a ride, a man approached Naty. The two talked (which appellant could not hear), then Naty handed to the man the box she was holding. Suddenly two men approached Naty who speedily ran away. The two men gave chase but were unable to catch her. To Susana's surprise, the two men came back and arrested her. She was brought to headquarters where she was investigated. She submitted her counter-affidavit to the City Fiscal (Exh. 1).

On cross-examination, appellant admitted she signed Exhibit "I" for the prosecution which shows that her rights were read to her before the investigation. She was informed of her right to remain silent and to have counsel. All this took place on February 3, 1985 in the presence of her counsel, Atty. Ricardo Tangalin, of the IBP Legal Aid Office. During the investigation, she signed a receipt for the property that was seized from her and marked as Exhibit "J". She admitted that the brown carton box containing four bundles of dried marijuana leaves weighing about three (3) kilos, were seized from her at M. Roxas, Brookside, Baguio City on February 3, 1985, at 2:30 P.M. During the custodial investigation, she waived her rights under Article 125 of the Revised Penal Code, so the investigation could continue (Exh. K).

In this appeal, appellant impugns the receipt (Exh. J) she signed. She alleges that the receipt is inadmissible as evidence against her because her constitutional right against self-incrimination was violated when she was made to sign it without being informed of her rights to counsel and to remain silent.

This contention has no merit. Appellant admitted at the trial that she was assisted by counsel when she signed Exhibit "J" (t.s.n. March 7, 1988, p. 17). She also signed the Investigation Report dated February 3, 1985 (Exh. I) which states that during the custodial investigation, she was informed of her right to remain silent and to counsel, and that she was assisted by Atty. Ricardo Tangalin of the IBP Legal Aid Office (t.s.n. March 7, 1988, p. 15).

Appellant questions the non-presentation of the poseur-buyer (Quevedo) who died before the trial, and the informer, as witnesses at the trial. But, as the trial court pointed out, the death of Quevedo did not destroy the case of the prosecution, for the sale and actual delivery of the marijuana by appellant to Quevedo were witnessed by Pat. Peralta and A2C Artizona, who testified at the trial (t.s.n. Nov. 7, 1986, pp. 3-4).

In support of her denial, appellant cited the testimony of A2C Artizona that he did not see her handing the brown carton box to Quevedo (t.s.n. August 27, 1987, p. 9). However, Peralta testified that he saw her give the illegal package to the poseur-buyer (t.s.n. November 7, 1986, p. 5). The positive identification of the accused as the seller of the marijuana prevails over her denials.

Her defense that she was framed up by the NARCOM team is the usual story of drug pushers or sellers, which does not impress us (*People vs. Agapito*, 154 SCRA 694). The law enforcers are presumed to have performed their duties regularly in the absence of proof to the contrary (*People vs. Natipravot*, 145 SCRA 483; *People vs. Asio*, G.R. No. 84960, September 1, 1989).

Appellant's contention that the trial court erred in convicting her in view of the prosecution's failure to present to the Court the brown carton box (Exh. B) and its contents (dried marijuana leaves) (Exhs. C, D, E and F) is not well taken. Carlos V. Figueroa, Forensic Chemist of the PC Crime Laboratory, testified that the box and its contents were presented, identified and marked as exhibits in court (t.s.n. November 6, 1985, pp. 3-8). The subsequent loss of these exhibits did not affect the case for the trial court had described the evidence in the records (t.s.n. April 13, 1988, p. 2). In *People vs. Mate*, 103 SCRA 484, we ruled that "(e)ven without the exhibits which have been incorporated into the records of the case, the prosecution can still establish the case because the witnesses properly identified those exhibits and their testimonies are recorded." Furthermore, in this case, appellant's counsel had cross-examined the prosecution witnesses who testified on those exhibits (t.s.n. November 6, 1985, pp. 8-9).

WHEREFORE, we affirm the decision of the trial court finding appellant Susana Napta-a guilty beyond reasonable doubt of having violated Section 21(b), Article IV, in relation to Section 4, Article II of R.A. No. 6425, as amended, sentencing her to suffer the penalty of reclusion perpetua, and to pay a fine of Twenty Thousand Pesos (P20,000) without subsidiary imprisonment in case of insolvency. The effects of the crime are forfeited in favor of the State and referred to the Dangerous Drugs Board for immediate destruction. Costs against the

appellant.

SO ORDERED.

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

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