

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BENJAMIN PERALTA DE GUZMAN, ACCUSED-APPELLANT.*G.R. No. 86172. March 04, 1991*

Ponente: CRUZ, J.

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Benjamin de Guzman, who claimed he was a chicharon vendor, was arrested for selling marijuana. Charged with violation of the Dangerous Drugs Acts, he was convicted after trial by the Regional Trial Court of Bulacan and sentenced to life imprisonment plus a fine of P20,000.00.[1] In the appeal now before us, he asks for a reversal of his conviction on the ground that the evidence against him was insufficient to establish his guilt beyond reasonable doubt. The People demur.

The case for the prosecution was based mainly on the testimony of Sgt. Ruben S. Bazar of the NARCOM District Office in Malolos, Bulacan. This witness testified that in the afternoon of December 7, 1987, his office received a tip from a confidential informer that De Guzman would be selling marijuana at Virgen de los Flores, Baliwag, Bulacan, from six o'clock in the evening until midnight. Their chief, Lt. Agrimero V. Cruz, forthwith organized a "buy-bust" team composed of Sgt. Efren Querubin, Sgt. Tahir Amad, the confidential informer, and Bazar himself. Lt. Cruz gave Sgt. Querubin, who was to pose as the buyer, a P50 bill marked with a blue dot between the words "Limampung" and "Piso." The team left at about 6 p.m. and proceeded to the esquinita where De Guzman would be operating. While Querubin and the informer waited for De Guzman, the other team members concealed themselves in various places in the area. Bazar said he was hidden behind some banana trees about ten meters away when he saw the two agents approach De Guzman. A few minutes later, Querubin threw away a lighted cigarette and at this pre-arranged signal the rest of the team closed in on De Guzman and, after identifying themselves as NARCOM agents, placed him under arrest. They confiscated the marked money from him. Querubin turned over a plastic bag containing marijuana dried leaves to Bazar, who conducted a field test on the contents when they arrived at NARCOM headquarters. The results were positive. The following day he prepared a Receipt of Property Seized which he asked De Guzman to sign. On December 10, 1987, he got the plastic bag from the locker where it had been placed under the care of a custodian and delivered it to the PC Crime Laboratory at Camp Olivas for examination.

Bazar added that De Guzman was known to him as being actively engaged in the selling of marijuana and was in fact facing charges for this same offense in another pending criminal case.

The only other witness for the prosecution was Capt. Marlene Salangad of the PC Crime Laboratory, who affirmed the findings in the field test and declared verbally and in her Technical Report No. NB-624-87[2] that the contents of the plastic bag were marijuana fruiting tops.

The defense of the accused-appellant was a flat denial. He said that the NARCOM agents simply arrested him without cause and without warrant and took him to NARCOM headquarters, where they manhandled him. They hogtied and divested him of his ring and P2,000.00 cash belonging to his sister. They first dumped him in a

fishpond and then in a "tarima" where they left him until the following morning, when he signed the Receipt of Seized Property because he was afraid of further punishment. He was detained at the PC stockade for three days, during which he was subjected to torture and third degree investigation until he was transferred to the provincial jail. He averred that a motorcycle belonging to him had three months earlier been taken by Bazar because it was parked in front of a gambling den.

Two other witnesses, namely, Ceferino Castro and Manuel Carillo, testified that in the evening of December 7, 1987, they saw three men arrest De Guzman at the esquinita. Both said the men pointed their guns at him, twisted his arm and then tied his hands with wire before taking him away.

After assessing the evidence of the parties, Judge Natividad G. Dizon opted to sustain the prosecution, preferring to give more credence to the testimony of Bazar, who she said had in his favor the presumption of regularity in the discharge of official functions and had no known motive for testifying falsely against the accused-appellant. She considered it significant that De Guzman had not protested when he was arrested. He had not denied that the marijuana had been confiscated from him and had in fact later signed a receipt therefor without objection. Her Honor also doubted De Guzman's tale of torture, noting that he had not presented any medical evidence to support it. She was likewise skeptical about his alleged manhandling to compel him to sign the waiver of detention which he said had been committed in a conspicuous and public place.

This Court is also not inclined to believe De Guzman's testimony. We cannot accept it not because it is incredible per se but because there is no evidence to sustain it. In fairness, though, we must add that such evidence is not easily come by, given the circumstances of the accused-appellant, who is an ordinary individual without convenient connections with a lawyer or the wherewithal to retain one. Neither can it be supposed that by himself alone, this chicharon vendor would be aware of his rights under the Constitution and have the boldness to assert them against the authorities holding him captive.

De Guzman's mere denial of the charges is also not convincing enough, especially if it is viewed, as the prosecution suggests, in light of the other criminal case against him for the same offense of selling marijuana and of his notoriety as a drug-pusher. The supposed corroboration of the other defense witnesses is practically useless as all they did was testify on the manner of his arrest which, even if illegal, would not necessarily sanitize his guilt.

In short, the defense is weak and fails to convince that the accused-appellant is not guilty of the charge that he sold marijuana to Sgt. Querubin for P50.00 on December 7, 1987, at Virgen de los Flores, Baliwag, Bulacan.

The trouble with the People's case, however, is that as weak as the defense may be, the prosecution is even weaker. It cannot by itself sustain a conviction. This Court has said times without number that in every criminal case the conviction of the accused must depend not on the weakness of the defense but on the strength of the prosecution.

Closely studied, the testimony given by Bazar tells little indeed of the supposed sale of marijuana by De Guzman to Querubin. From his vantage point of ten meters away, Bazar could not have heard the supposed conversation between the two, nor did he testify that he saw the actual delivery of the marijuana by De Guzman to Querubin and Querubin's payment of the marked P50 bill. All Bazar said he saw was the pre-arranged signal, but that alone proved nothing. Surely, the accused-appellant's conviction cannot be based solely on the innocuous fact that Querubin threw away a lighted cigarette.

The Court can only wonder why the prosecution did not present Querubin, who allegedly bought the marijuana from De Guzman and paid him with the marked money. His identity did not have to be concealed like that of the

informer. 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. Yet it was Bazar and not Querubin whom the prosecution chose as its star witness.

The prosecution suggests that if the defense really felt that Querubin could 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. As far as the defense was concerned, it had no obligation and saw no necessity at that time to ask Querubin to testify for it. It had nothing to prove or to disprove.

The trial judge regarded as tell-tale signs of De Guzman's guilt his submissiveness when he was arrested and the fact that he signed without objection the Receipt of Seized Property, which was later offered as Exhibit "C." One can easily be cowed into silence by men with drawn guns and ostensible authority and may even be intimidated into involuntary admissions as De Guzman claims he was when he signed the receipt. That receipt was in reality an admission which the accused-appellant was forced to make without the assistance of counsel and without being first informed of the constitutional rights of a person facing custodial investigation. That evidence was totally inadmissible under the Bill of Rights^[3] and the consistent rulings of this Court since the case of *People v. Galit*.^[4]

While it is true, as the Solicitor General observes, that the accused-appellant did not refute the prosecution evidence of his facing another criminal prosecution for drug dealing, that fact is not relevant in the case at bar. We are not trying him for that charge or for his reputation as a drug dealer. The case at bar is Criminal Case No. 1453-M-87, and no other.

The prosecution cannot draw its strength from the weakness of the defense. The evidence of the People must be strong enough to stand on its own two feet instead of leaning on the crutches of the evidence for the defense. It must be strong enough to convince this Court that the prisoner in the dock must be punished, not because he cannot prove that he is innocent but because it has proved that he is guilty.

The constitutional presumption of innocence is not an empty platitude meant only to embellish the Bill of Rights. Its purpose is to balance the scales in what would otherwise be an uneven contest between the lone individual pitted against the People of the Philippines and all the resources at their command. Its inexorable mandate is that, for all the authority and influence of the prosecution, the accused must be acquitted and set free if his guilt cannot be proved beyond the whisper of a doubt. That mandate shall be enforced.

WHEREFORE, the appealed decision is REVERSED and SET ASIDE. The accused-appellant is ACQUITTED on reasonable doubt and shall be released immediately. It is so ordered.

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

[1] Rollo, pp. 13-19.

[2] Exhs. F, F-1, F-2 & F-3.

[3] Sec. 12(3)

[4] 135 SCRA 465.

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