

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FLORO DEL PILAR, ALIAS “SONNY,” ACCUSED-APPELLANT.

G.R. No. 86360. July 28, 1990

Ponente: REGALADO, J.

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REGALADO, J.:

Accused-appellant impugns and would have this Court reverse the decision of the Regional Trial Court of Ilocos Sur, Branch XXIV, in Criminal Case No. 1014-K[1] finding him guilty beyond reasonable doubt of violating Section 4, Article II of Republic Act No. 6425, otherwise known as the Dangerous Drugs Act of 1972, as amended by Presidential Decree No. 1675 and sentencing him "to suffer the penalty of reclusion perpetua (life imprisonment) with all the accessory penalties provided for by law, to pay a fine of P20,000.00 without subsidiary imprisonment in case of insolvency, and to pay the costs." [2]

The information filed against appellant alleges that on or about November 3, 1985, in Cabugao, Ilocos Sur, the said appellant, without having been authorized by law, wilfully, unlawfully and feloniously delivered and sold Indian hemp, otherwise known as "marijuana," a kind of plant from which a prohibited drug may be manufactured.[3]

Upon arraignment, appellant pleaded not guilty. During the trial, the prosecution tried to establish the guilt of appellant through the testimonies of Patrolman Alexander Y. Casela, Station Commander Sgt. Angelino S. Savella, Robert Arthur, Miguel Solatre, Captain Valentino A. Gaerlan, Judge Efren S. Ubungen and Sebastian Castillo. The defense presented the appellant himself, his wife, Teresita Del Pilar, and his sister, Corazon Ramos.

The prosecution's evidence, upon which the trial court based its finding of guilt, sustains the following factual findings of said court:

"In the late afternoon of November 3, 1985, between the hours of five and six o'clock, P/Sgt. Angelino S. Savella, Pfc. Sebastian P. Castillo, Pat. Nestor S. Savellano, Pat. Stephen E. Sabio and Pat. Alexander Y. Casela, all of the Cabugao, Police Station, Cabugao, Ilocos Sur, laid out a plan to entrap the accused who was reported to be dealing in dried marijuana leaves. The information was relayed to the police by Robert Arthur and Miguel or Bonifacio Solatre, both of Brgy. Rizal, Cabugao, Ilocos Sur.

"With Arthur and Solatre assigned as decoys, the police team motored to Brgy. Pug-os, Cabugao, Ilocos Sur, where accused maintains a store. Arthur was provided by P/Sgt. Savella with a twenty-peso bill bearing the initial(s) 'AYC' which stands for Alexander Yabes Casela, a member of the team, with which to buy marijuana from the accused. Upon arrival in Brgy. Pug-os, the members of the police team deployed themselves at a place south of the store of the accused, while Arthur and Solatre went inside to buy the prohibited stuff. After Arthur had bought the marijuana from the accused and had given the agreed signal by coughing, P/Sgt. Savella and his men surrounded the house of Del Pilar. P/Sgt. Savella went inside the house and talked to the wife of the accused, Teresita, and demanded the production of the marked twenty-peso bill. Mrs. del Pilar denied having received the same. The accused was no longer inside the store because he had already left, but Pfc. Castillo and Pat. Casela who went after the accused met him on the way. When pressed by P/Sgt. Savella to

produce the marked money used by Arthur in buying the marijuana, the accused and his wife retrieved it from the receptacle containing their daily sales proceeds and handed the same to P/Sgt. Savella.

"The accused, Floro Del Pilar @ Sonny, was brought to Police Headquarters where he identified the prohibited stuff bought by and taken from Robert Arthur. He and his wife did not make any complaint about any wrongdoing committed by the arresting officers.

"Robert Arthur and Miguel or Bonifacio Solatre gave their individual written state-ments detailing the incident on the following day, i.e., November 4, 1985 (Exhs. 'D-5' & 'D', respectively). However, during the trial, both tried to prove that their sworn statements were the handiwork of the police investigators who allegedly prepared everything for their signature. They disowned the important role played by them in the entrapment of the accused. In view of this development, the prosecution had to present on the witness stand Judge Efren S. Ubungen before whom Arthur and Solatre swore to the truth of their statements after the same were read and explained to each of them.

"The accused denied having sold the prohibited stuff wrapped in a cigarette tin foil (Exh. 'B') to Arthur. He also denied having received the marked twenty-peso bill (Exh. 'A') from Arthur in payment of the marijuana. He claimed that he was the innocent victim of a frame-up.

"The wife of the accused, Teresita, and his sister, Corazon Ramos, testified that Arthur and Solatre went to buy cigarettes, not marijuana, from the store and paid a five-peso bill for the cigarettes. It so happened that there was a wrapped object of the size of a face towel which was left behind by a certain Sammy who played basketball a few days before, and it was this wrapped object which the two asked from the accused. It turned out that the policemen capitalized on the presence of this wrapped object to allege that it contained dried marijuana leaves. Mrs. Del Pilar further claimed that the marked money was planted by one of the policemen after having failed to locate it at the first instance.

"In a final bid, the accused tried to impute an evil motive on the part of the arresting officers by claiming that one of them was attracted to his wife, Teresita, and that may be the reason why they want him to be incarcerated." [4]

According to appellant, the testimonies of Arthur and Solatre, who were the prosecution's so-called decoys in the "buy-bust" operation, are at variance on material points with their previous sworn statements taken before the police authorities and, therefore, this renders said testimonies unreliable. He argues that the prosecution should be bound by the declarations of its own witnesses and if their testimonies tend to absolve him, he is entitled to an acquittal. [5]

He opines that entrapment, as a device for the apprehension, prosecution and conviction of the offender, is illegal and violative of human rights because there is no administrative order or regulation which authorizes and regulates the same. [6] He claims that he was a victim of "a possible desire of the police to frame-up and extort" from him "which is a usual objective of raids of this nature." He submits the observations that the courts in Cabugao were not informed of the plan to entrap him; the display of unnecessary and disproportionate police power consisting of five (5) policemen, led by the station commander himself, with the assistance of two (2) decoys; Sgt. Savella and some policemen went inside his house demanding the production of the P20.00 bill; the use of personal money of Station Commander Angelino Savella to buy marijuana leaves; and the suspicion that the marijuana leaves were planted since Arthur and Solatre did not buy them. [7]

Furthermore, he bewails the fact that he was made to identify the marijuana leaves allegedly sold by him without the benefit of counsel. He also capitalizes on the failure of the police operatives to issue him a receipt which would prove the seizure of the marijuana leaves and the recovery of the marked P20.00 bill. [8]

Penultimately, appellant claims that it is unthinkable, if not unbelievable, for his wife to voluntarily return the

alleged marked money used in the "buy-bust" operation.[9] He contends that when the raiding team arrived in his house, he was not there: that it was his wife who was encountered by the police operatives; and that the evidence thus tends to indicate the strong possibility that it was his wife who was the drug pusher.[10]

Lastly, appellant points out alleged conflicting statements of the prosecution witnesses in that, according to the station commander, Sgt. Angelino Savella, he gave the P20.00 for the purchase of marijuana to Robert Arthur at the municipal hall[11] and Pat. Alexander Y. Casela, marked the P20.00 bill also at the municipal hall.[12] However, according to Pat. Casela, he initialed the P20.00 bill at the waiting shed in Brgy. Pug-os and Sgt. Savella delivered the marked money to Arthur also in the same waiting shed.[13] Appellant further notes that Pat. Casela testified on direct examination that accused Del Pilar turned over the retrieved marked money to Sgt. Savella,[14] but on cross-examination, Pat. Casela stated that Mrs. Del Pilar delivered the seized marked money to Station Commander Savella.[15]

The appeal is devoid of merit. A painstaking review of this case shows that what actually transpired was an entrapment and not a frame-up. The records show that the law enforcement team never planted evidence to incriminate appellant nor did they induce him to perform any prohibited act which he would never have done but for such inducement. On the contrary, the sale of the marijuana leaves was made by him of his own volition and the team merely devised a means to obtain evidence thereof.

In *People vs. De la Cruz, et al.*,[16] we made this observation:

"We are not unmindful of the fact that the common modus operandi of narcotic agents in utilizing poseur-buyers does not always commend itself as the most reliable way to go after violators of the Dangerous Drugs Act as it is susceptible of mistakes as well as harassment, extortion and abuse. By the very nature of this anti-narcotics operation, the possibility of abuse is great."

but we also declared that –

"We are not, however, inclined to shackle the hands of narcotic agents whose task, as it is, is already formidable and attended with great risk, lest their dedicated efforts for the apprehension and successful prosecution of prohibited drug violators be unduly hampered. The proliferation of drug addiction and trafficking has already reached an alarming level and has spawned a network of incorrigible, cunning and dangerous operators. Our experience has proven entrapment to be an effective means of apprehending drug peddlers as exemplified by this case."

We again reiterate that a "buy-bust" operation, as what happened in this case, is a form of entrapment employed by peace officers to trap and catch a malefactor in flagrante delicto. It is an effective way of apprehending a criminal in the act of the commission of the offense. Entrapment, therefore, has received judicial sanction as long as it is carried out with constitutional and legal circumspection.

The appellant asks the Court to set aside the testimonies of prosecution witnesses Robert Arthur and Miguel Solatre for being unreliable. They were supposed to have acted as poseur buyers or decoys as the trial court called them. Both witnesses, however, denied having bought any marijuana from appellant. In effect, they disowned any participation in the "buy-bust" operation. They, however, admitted having signed their respective extrajudicial statements[17] before Judge Efren S. Ubungen of the Municipal Trial Court of Cabugao, Ilocos Sur, particularly narrating their participation in the "buy-bust" operation[18] although they tried to gloss over the same and denied having knowledge of the contents thereof.

We are not persuaded by the supposed retractions of Robert Arthur and Miguel Solatre. Firmly entrenched is the rule that recantations of extrajudicial statements formally made before an investigating officer are looked upon with disfavor by the courts.[19] The retracted statement must be subject to scrupulous examination. The previous

statement and the subsequent one must be carefully compared and the circumstances under which each was given and the reasons and motives for the change carefully scrutinized. The veracity of each statement must be tested by the credibility of the witness which, as a general proposition, is left for the trial judge to ascertain.

A comparative examination of the testimony of Robert Arthur during the trial and his sworn written statement bares no substantial variation or contradiction as would affect the trial court's conclusion that appellant was entrapped in the "buy-bust" operation. His testimony that he never agreed with the police operatives to entrap the appellant does not bear the imprint of truth.

The records show that on November 3, 1985, he was accompanied by Miguel Solatre to the house of appellant at Brgy. Pug-os, Cabugao, Ilocos Sur and that he had received from Station Commander Angelino Savella the money with which to buy marijuana;[20] that he knew appellant to be the source of marijuana;[21] and that he inquired from appellant whether he has marijuana for sale.[22] The foregoing testimony given by him during the trial substantially interweaves with his extrajudicial written statement where he stated that the police gave him money to buy marijuana: that he was sent by the police operatives to buy marijuana at Brgy. Pug-os, Cabugao, Ilocos Sur; that he went to that place on November 3, 1985 together with Miguel Solatre; and that he knows that the purpose of the police operatives was to apprehend appellant.

An analysis and the combination of all these circumstances would lead to no other conclusion than that the entrapment of appellant did take place as contended by the prosecution. Where the events constitute a compact mass of circumstantial evidence, the existence of every bit of which was satisfactorily proved and the proof of each is confirmed by the proof of the other, and all without exception leading by mutual support to but one conclusion, the circumstantial evidence is sufficient to establish the culpability of the accused beyond reasonable doubt.[23]

Furthermore, it appears that the extrajudicial written statement executed by Robert Arthur and Miguel Solatre were subscribed and sworn to before Judge Efren S. Ubungen who himself testified that he had the occasion to explain to them the contents thereof and their voluntary execution of the same. The appellant failed to show why Judge Ubungen would be actuated by any improper motive in testifying as he did. There is nothing in the records to suggest that the good judge was motivated by any reason other than his desire to perform his solemn task in having the affiants voluntarily and intelligently swear to the truth of their statements. Consequently, we are convinced that we should accord full credence to the aforesaid extrajudicial written statements of Robert Arthur and Miguel Solatre.

The defense of frame-up can undoubtedly be fabricated with facility. It must, therefore, be proved by clear and convincing evidence. Like alibi, it is a weak defense that is easy to concoct and is difficult to prove.[24] Understandably, appellant seeks to bolster his contrived defense by imputing evil motives on the part of the police officers to the extent of claiming, inter alia, that one of them was attracted to his wife and that may be the reason why he is being prosecuted. These lame insinuations do not impress us as sensible arguments. The narration of the incident by the police operatives, who enjoy the legal presumption that their official duty was by then regularly performed, is worthy of credit.

Appellant, as earlier noted, also tries to exploit the alleged inconsistencies of the prosecution witnesses regarding the P20.00 marked bill. It is obvious, however, that the apparently conflicting statements are mere unwitting lapses on insignificant details and do not bear such weight as would affect the credibility of these witnesses and their testimonies. In fact, even the absence of the marked money would not create a hiatus in the prosecution's evidence as long as the marijuana subject of the prohibited transaction was presented before the lower court.[25]

In *People vs. Macuto*,[26] we stressed that the commission of the offense of illegal sale of marijuana requires

merely the consummation of the selling transaction. How the marked money was recovered is of no great significance in establishing the guilt of the appellant. What is important is the fact that the poseur buyer received the marijuana from the appellant and the contents were presented as evidence in court.

Section 4, Article II of Republic Act No. 6425, as amended, provides for the penalty of life imprisonment to death and a fine ranging from P20,000.00 to P30,000.00. The dispositive part of the trial court's decision is not entirely accurate since it imposed the penalty of reclusion perpetua. Reclusion perpetua, as understood in the Revised Penal Code, has its own legal connotation, effects and accessory penalties which are not applicable to life imprisonment provided for by the Dangerous Drugs Act of 1972 which is a special law. The penalty imposed on appellant should have been indicated as, and it is hereby declared to be, life imprisonment.

WHEREFORE, with the above modification, the judgment of the lower court is hereby AFFIRMED in all other respects.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Padilla, and Sarmiento, JJ., concur.

[1] Per Judge Florencio A. Ruiz, Jr.

[2] Original Record, 173.

[3] Ibid., 1.

[4] Ibid., 168-171.

[5] Rollo, 56-57.

[6] Ibid., 62.

[7] Ibid., 59-60.

[8] Ibid., 65.

[9] Ibid., id.

[10] Ibid., 61.

[11] TSN, July 15, 1986, 5.

[12] Ibid., id., 7.

[13] Ibid., March 21, 1986, 4.

[14] Ibid., February 24, 1986, 25.

[15] Ibid., March 21, 1986, 8.

[16] G.R. No. 83260, April 18, 1990, citing *People vs. Fernando*, 145 SCRA 151 (1986); *People vs. Ale*, 145 SCRA 50 (1986).

[17] Original Record, 132-135.

[18] TSN, May 22, 1987, 78, 85.

[19] *People vs. Aldeguer*, G.R. No. L-47991, April 3, 1990; *People vs. Navasca*, 76 SCRA 70 (1977).

[20] TSN, May 22, 1987, 76.

[21] Ibid., id., 80.

[22] Ibid., id., 78.

[23] People vs. Aldeguer, ante, Footnote 19.

[24] People vs. Estevan, G.R. No. 69676, June 4, 1990; People vs. Nabunat, G.R. No. 84392, February 7, 1990; People vs. Agapito, 154 SCRA 694 (1987).

[25] People vs. Marcos, G.R. No. 83325, May 8, 1990; People vs. Tejada, G.R. No. 81520, February 21, 1989.

[26] G.R. No. 80112, August 25, 1989.

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