

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. AUGUSTO MANZANO Y REYES, RESPONDENT.

G.R. No. 86555. November 16, 1993

Ponente: VITUG, J.

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VITUG, J.:

An information filed on 05 September 1983 before the Regional Trial Court of Manila, charges ?

“x x x AUGUSTO MANZANO Y REYES (with) Violation of Section 4, Article II in relation to Section 2 (i) Article I of Republic Act No. 6425, as amended by P.D. 44, as further amended by P.D. 1675, committed as follows:

That on about September 2, 1983, in the City of Manila, Philippines, the said accused, not being authorized by law to sell, deliver, distribute or transport to another any prohibited drug, did then and there willfully and unlawfully sell and deliver for monetary consideration seven (7) tea-bag size plastic containing marijuana flowering tops at P5.00 per tea bag, which is a prohibited drug.”

The trial of the case was originally presided over by Hon. Oscar C. Fernandez. When Hon. Romeo J. Callejo assumed the post of Judge Fernandez, he promptly ordered the Court Stenographic Reporters to submit their transcripts of stenographic notes. To his dismay, however, discrepancies were discovered in the transcripts; the transcriptions submitted by one Mercedes Velasquez were incomprehensible; and no stenographic notes were apparently taken during the testimony of defense witness Leonardo Quiambao. Upon motion of the accused's counsel, the incumbent judge ordered the retaking of the testimonies of Pat. Gaudencio Quebuyen and defense witness Leonardo Quiambao and the cross-examination of Pat. Paterno Banawel. Additional documentary evidence was likewise admitted.

On 02 October 1987, the court a quo, following the formal submission of evidence, rendered judgment, finding the accused guilty of the crime charged and sentencing him, thus -

“WHEREFORE, judgment is hereby rendered finding the Accused Augusto Manzano y Reyes, guilty beyond reasonable doubt, as principal, for the crime of violation of Section 4 Article II in relation to Section 2 (e)(i) of Republic Act 6425, as amended and hereby sentences him to the penalty of RECLUSION PERPETUA, with accessory penalties of the law and to pay a fine of P25,000.00, without subsidiary imprisonment in case of insolvency, and to pay the costs of the suit.

The marijuana subject matter of this case is hereby declared forfeited in favor of the government.

The Accused shall be credited for the entire period of his detention during the pendency of this case provided that he undertook in writing, to abide by and comply strictly with the rules and regulations of the City Jail of Manila.”

In this appeal, the accused claims that -

“THE LOWER COURT (HAS) GRAVELY ERRED IN FINDING THE ACCUSED GUILTY OF THE CRIME

CHARGED NOTWITHSTANDING THE FOLLOWING:

- (a) Inadmissibility of evidence obtained in violation of the accused's rights under the Constitution (; and)
- (b) Proof of guilt beyond reasonable doubt has not been adequately, positively and convincingly established."

The trial court, in convicting the accused-appellant, relied, in main, on the evidence for the prosecution, thus -

The Drug Enforcement Section of the Western Police District received information that the accused was engaged in the sale of marijuana. On 02 September 1983, a "trial-buy" operation was conducted by the law enforcement operatives. At five o'clock that afternoon, a civilian poseur-buyer was able to purchase from the accused dried flowering tops of suspected marijuana with cigarette rolling papers contained in three (3) tea-bag sized plastic bags. Each bag sold for P5.00. No arrest was made. At seven o'clock in the evening of the same day, however, a "buy-bust" operation, this time conducted by police officers Sgt. Gaudencio Quebuyen, Pat. Rolando Anza, Pat. Paterno Banawel, Pat. Bernabe Yokingco and Pat. Eriberto Alameda, with Rebecca Avila Reyes, a civilian informer, as poseur-buyer, was set into motion. The team was so positioned as to have a clear view of the transaction that was to take place near an electric post. Not long after, the poseur-buyer gave the accused four (4) P5.00 marked bills. The accused left; moments later, he returned and handed over to the poseur-buyer four (4) plastic bags, tea-bag size, containing marijuana flowering tops and pieces of white rolling paper. Forthwith, the informer gave the pre-arranged signal (by scratching her head). The team promptly moved in and arrested the accused. Only one of the P5.00 marked bills was recovered from him.

Accused-appellant firstly anchors his assigned error on the fact that he has been "investigated, interrogated and made to sign an accomplished booking sheet and arrest report without the benefit of counsel." [1] The contention is without merit. This Court has already emphasized that "(w)hen an arrested person signs a booking sheet and arrest report at a police station, he does not (thereby) admit the commission of an offense nor confess to any incriminating circumstance." [2] The booking sheet is no more than a record of arrest and a statement on how the arrest is made. It is simply a police report, and it has no probative value as an extrajudicial statement of the person being detained. [3] The signing by the accused of the booking sheet and arrest report is not a part of the custodial investigation which would otherwise require the presence of counsel to ensure the protection of the accused's constitutional rights. [4]

The appellant's plea of innocence on the basis of reasonable doubt, however, deserves serious consideration.

In the prosecution of an accused for an illegal sale of prohibited drugs "what is (initially) material is x x x the presentation in court of the corpus delicti as evidence." [5] The laboratory tests and the chemical microscopic examination, conducted by NBI Forensic Chemist Neva Gamosa, definitely reveal the contents of the plastic bags to be marijuana. [6] The chemistry report, attested to by the forensic chemist, has undoubtedly established the corpus delicti of the crime. [7]

The other question is whether or not the prosecution has been able to prove the fact of sale and delivery of the prohibited drug by the accused, a matter that must likewise be established beyond reasonable doubt. [8]

In any criminal prosecution, it would be imperative to establish the elements of the offense; viz:

- (1) That the accused had sold and delivered a prohibited drug to another; and
- (2) That he knew that what he had sold and delivered was a dangerous drug. [9]

A tedious and conscientious effort has been made to evaluate the evidence presented by the prosecution; the results every time, however, appear to yield more questions than answers to a number of concerns that has bewildered the Court.

First. The prosecution witnesses could not agree on the number of marijuana tea bags taken from the accused. Patrolman Quibuyen[10] testified that three bags were taken from the accused during the buy-bust operation. On the other hand, Patrolman Banawel[11] claimed that four marijuana bags were sold by the accused to the informer.

Second. The buy-bust team was supposed to be composed of six members: five members of the police force and a civilian informer. Yet, the name of a sixth police officer kept on cropping up - that of Patrolman Borlongan.[12] No effort was made to clarify who this Patrolman Borlongan is.

Third. Patrolman Quebuyen[13] testified that only the accused was arrested and that defense witness Leonardo Quiambao (who claimed to have likewise been arrested together with the accused) was not present at the place of the incident. According, however, to Patrolman Anza,[14] the accused was seen with a companion who, in fact, was chased by the police officers. This conflicting versions given by the prosecution itself, again, were not explained.

More importantly, the prosecution has missed putting on record any evidence to indicate that the tea bags, supposedly delivered to the poseur-buyer, had been known by the accused to contain dangerous drugs. Even the information itself has failed to allege this fact.[15] Section (2)(f), Article I of Republic Act No. 6425, as amended, defines the term "deliver" the offense that is charged in the information, as "x x a person's act of knowingly passing a dangerous drug to another personally or otherwise, and by any means, with or without consideration."

Given all the above, it is readily discernable that the testimony of the poseur-buyer would have been most vital to the prosecution's case.[16] Yet, the prosecution did not even bother to have her take the witness stand.

A final remark on the buy-bust operation that simply cannot escape one's attention. The prosecution sought to prove that the accused left the place of the transaction for a few minutes and entered an alleyway to get the marijuana tea bags from an unknown supplier. No attempt was made to find out who this person was, either before or after the accused was apprehended. Then, while it was asserted by the prosecution that the informer gave the accused four P5.00-marked bills, only one P5.00-marked bill was recovered from the latter when he was arrested. The three other P5.00-marked bills were not accounted for.

Too much, indeed, has been left to conjecture. While buy-bust operations have long been recognized as a valid means of apprehending peddlers of drugs,[17] we also did caution, however, that the use of poseur-buyer is to be employed with solicitude being, as it is, easily susceptible to mistake, harassment, extortion and abuse.[18]

Considering the severity of the penalty imposed, it behooves the law enforcement agencies in its investigatorial work, the prosecution in its presentation and submission of the evidence,[19] and the courts in its evaluation of the merits of the case, to exercise no less than the extreme care and professionalism demanded in these cases if we are to attain a good degree of success in our drive to curb the drug menace. Unfortunately, the buy-bust operation, assuming that it did take place in this particular instance, has appeared to have been laid out quite haphazardly. Instead of taking that cue for it to excel on its own, the prosecution regrettably has likewise exhibited a lukewarm stance. The rule is clear: The guilt of the accused must be proved beyond reasonable doubt.[20] The prosecution, on its part, must rely on the strength of its own evidence and must not simply depend on the weakness of the defense. The slightest possibility of an innocent man being convicted for an offense he has never committed, let alone when no less than a capital punishment is imposed, would be far more dreadful than letting a guilty person go unpunished for a crime he may have perpetrated.

WHEREFORE, the decision of the trial court is REVERSED and SET ASIDE and the accused is hereby ACQUITTED of the offense charged.

SO ORDERED.

Feliciano, (Chairman), Bidin, Romero, and Melo, JJ., concur.

[1] Appellant's Brief, p. 6.

[2] People vs. Rualo, 152 SCRA 635; People vs. Bandin, G.R. No. 104494, 10 September 1993.

[3] Ibid.

[4] People vs. Olivares, 186 SCRA 536.

[5] People vs. Mariano, 191 SCRA 136; People vs. Labarias, 217 SCRA 483. See also People vs. Pacleb, 217 SCRA 92.

[6] Rollo, pp. 57-60.

[7] People vs. Celiz and Bangero, 214 SCRA 55.

[8] People vs. Alilin, 206 SCRA 772.

[9] People vs. Aranda. G.R. No. 100985; 17 September 1993.

[10] TSN, 24 October 1986, p. 4; TSN, 8 September 1987, p. 6.

[11] TSN, 7 November 1984, p. 9.

[12] Patrolman Quebuyen, TSN, 24 October 1986, p. 4; Patrolman Banawel, TSN, 8 September 1987, p. 1.

[13] TSN, 24 October 1986, pp. 5-6.

[14] TSN, 14 November 1984, pp. 10-11.

[15] The information is to the effect that the accused "x x x willfully and unlawfully sell and deliver for monetary consideration seven (7) tea-bag size plastic containing marijuana flowering tops x x x. (underscoring supplied).

[16] People vs. Yabut, 210 SCRA 394; People vs. Fulgarillas, 212 SCRA 76; People vs. Polizon, 214 SCRA 56.

[17] People vs. Ramos, Jr., 203 SCRA 237.

[18] People vs. Lati, 184 SCRA 336; People vs. Yutuc, 188 SCRA 1.

[19] People vs. William, 209 SCRA 808.

[20] People vs. Alilin 206 SCRA 772.

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