

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROLANDO QUETUA Y SANTIAGO, ALIAS “RAUL,” DEFENDANT-APPELLANT.

G.R. No. 87667. May 21, 1993

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

ACCUSED ROLANDO QUETUA Y SANTIAGO appeals from the judgment[1] of the Regional Trial Court of Gapan, Nueva Ecija, convicting him of violation of Sec. 4, Art. II, of R.A. No. 6425, otherwise known as "The Dangerous Drugs Act of 1972," as amended, the Information alleging that on 18 March 1987, in Gapan, Nueva Ecija, the accused sold, delivered and gave away to another two (2) tea bags of dried marijuana leaves or Indian hemp without authority of law.

The version of the prosecution: After conducting surveillance on the reported drug activities of the brothers "Yakee" and "Raul", elements of the Philippine Constabulary at Aurora Narcom District, Nueva Ecija, proceeded to the suspects' residence at Daang Bakal, Sto. Niño, Gapan, in the afternoon of 18 March 1987. "Yakee" is Marcelino and "Raul" is Rolando, both surnamed Quetua. They were reported to be drug pushers.

The raiding team, composed of T/Sgt. Pablito E. Reyno, Sgt. Danilo S. Maullon, Sgt. Juanito dela Cruz, CIC Romeo de Jesus, civilian agent Edgar Punzal and a civilian/confidential informer, arrived at the residence of the suspects around 4:50 in the afternoon. While the rest of the team positioned themselves some 50 to 60 meters away, Sgt. Reyno, acting as poseur-buyer, together with the civilian informer, went to the house of the suspects and expressed to "Raul" his desire to "score" which means, in local parlance, to buy marijuana. Appellant then entered the house. When he came out, he brought with him two (2) tea bags of the prohibited stuff[2] and handed them over to Sgt. Reyno who paid P10.00 in marked money.[3] Whereupon, the accused was arrested. Upon questioning, the accused voluntarily surrendered a brown paper containing marijuana fruiting tops weighing approximately 200 grams, twenty-three (23) tea bags of marijuana fruiting tops, and a yellow plastic bag marked "AJINOMOTO" containing marijuana seeds also weighing approximately 200 grams.[4] The accused was then brought to the Field Office of the raiding team where Sgt. Reyno, as Investigating Officer, prepared a Certificate of Field Test,[5] a Booking Sheet and Arrest Report,[6] as well as a Receipt of Property Seized/Confiscated.[7]

On the other hand, to refute the alleged sale of marijuana and establish that appellant was actually framed-up, the defense presented Filomena Arcilla (neighbor and sister-in-law of appellant), Luningning Quetua (appellant's mother), Danilo Cabanlit, and appellant himself.

Filomena Arcilla testified that in the afternoon of 18 March 1987, she was near the house of her neighbor Lucing de Guzman from where she could see the house of appellant. She saw a tricycle stop in front of the gate with two (2) passengers one of whom alighted, looking for "Yakee." "Raul" came out and talked to the visitor for two to three minutes. The other passenger then alighted and gave him a blow on the face that felled him. Then "Raul" was handcuffed after which a Ford Fiera arrived with eight (8) or more armed passengers. They entered and

ransacked appellant's house for about fifteen (15) minutes. As Filomena watched the entire occurrence, she did not see "Raul" hand anything to the men nor anything being carried by them away from the house.[8] Luningning Quetua confirmed that, although she was also present, she did not see the soldiers take things from the house.[9]

On his part, appellant asserts that in the afternoon of the incident, he noticed a tricycle cruising around his house. The passengers appeared to be looking for somebody. The tricycle stopped in front of the gate after which a passenger alighted looking for his brother Yakee." Since "Yakee" was not home, appellant came out of the house and advised the callers to return some other time. But they came right back[10] and told him they were looking for marijuana. After appellant gave them a negative response, an argument ensued. He was hit, handcuffed, and while being held by the collar, was forced to go inside the house. Then he was brought to the Gapan Police Station where he was coerced into signing Exh. "F", an improvised plastic envelope containing the two (2) tea bags, and two or three documents. He was compelled to sign whenever a member of the team would hit him on the head with a stapler.[11]

The next morning, Sgt. Reyno went to see appellant in jail and told him he would be freed if he could produce his brother. After a week, Sgt. Reyno again visited him, this time telling him that he had to identify another pusher to gain his freedom. But not knowing any pusher nor the whereabouts of his brother, appellant was not released. However, he was told by his friends that according to the companions of Sgt. Reyno he could be released if he could produce P10,000.00.[12]

Testifying for the accused, Donato Cabanlit narrated that as civilian informer of the NARCOM for three (3) weeks, he was aware of the modus operandi of Sgt. Reyno and his team of bringing marijuana in their raids for the purpose of "planting evidence" on their intended victim so that they could arrest him, extort money, and file a complaint whenever their demand was not met.

In the case of appellant Rolando Quetua alias "Raul", the team met in the morning and discussed the possible arrest of Marcelino alias "Yakee" whom they claimed to be a drug pusher. The team members agreed to observe their usual practice of bringing marijuana with them in their operation and he (Cabanlit) was even the one who got the tea bags (Exh. "F") from the office cabinet where they were kept.[13] Part of the plot was to arrest any of the Quetua brothers in the event that Marcelino himself could not be arrested. Cabanlit claimed that he had to testify because he could no longer stand the continued incriminatory machinations being committed against innocent victims by this team.[14]

Unfortunately, the trial court did not consider the testimonies of Filomena Arcilla and Donato Cabanlit as worthy of belief because the former is the sister-in-law of the accused, while the latter was a "disgruntled" informer.

We do not agree with the court a quo.

The Forensic Chemist, Capt. Marlene Salangad, testified that while the two (2) tea bags were positive of marijuana,[15] they were brought to her for examination only on 20 March 1988, or two (2) days after the buy-bust operation. The two (2) tea bags were not even properly identified.[16]

CIC Romeo de Jesus' testimony hardly carries any weight. It is centered merely on the briefing conducted before, and the investigation after, the buy-bust operation. No account was given of the actual sale or exchange of the prohibited stuff with the marked money. Sgt. de Jesus, being then positioned some 50 to 60 meters away from Sgt. Reyno, and the confidential informer as well as the appellant, only saw them talking but did not hear their conversation.[17] Besides, he and the rest of the team approached the trio only when a commotion ensued.[18]

Aside from Exh. "F" (marijuana tea bags) and Exh. "A" (marked money), which appellant insists were "planted," there is nothing left on record to establish the alleged sale of marijuana except the following uncorroborated

testimony of Sgt. Reyno-

"Q: When you reached Sto. Niño, Daang Bakal, what did you do?

"A: I talked with the confidential informer and we proceeded to the residence of the suspect riding in a tricycle, sir.

"Q: Then what follows (sic) after you went to the residence of the suspect?

"A: Our confidential informer talked to the suspect and the suspect came out and talked to us in front of their house, sir.

x x x x

"Q: What did he do when he talked to you?

"A: I told him we will score or buy marijuana, sir x x x x The suspect left and proceeded to their house and later came back and handed to me two (2) tea bag (sic) of marijuana, sir.

x x x x

"Q: You said that you were handed two tea bag (sic) of marijuana by the suspect, what did you do if any?

"A: I handed to him the P10.00 bill, marked money, sir.

x x x x

"Q: What happened next after you received the two tea bag (sic) of Marijuana from the suspect as well as the payment P10.00 bill x x x x

"A: Immediately right after the suspect got the payment of marijuana, I effected the arrest, sir."[19]

We concede that it is possible to convict an accused on the sole testimony of a witness so long as it is positive and credible, especially where the witness is a police officer who enjoys the presumption of regularity of the performance of his duties. However, in the case before Us, the testimony of Sgt. Reyno does not satisfy the quantum of proof required to convict the accused. His uncorroborated account of the alleged sale is too sketchy to sustain a conviction under Sec. 4, Art. II of R.A. 6425 where the sale without authority of law has to be clearly and unmistakably established.[20] The evidence for the prosecution appears confined merely to buyer-told-seller-of--intention-to-buy-marijuana, and seller-handed-over-stuff-while-buyer-gave-P10.00-as payment. But how could appellant, as seller, have known what quantity to bring when from the testimony he did not even have the slightest idea of how much marijuana Sgt. Reyno, as buyer, was interested in purchasing.

On the other hand, how could Sgt. Reyno have known how much the stuff would cost when he did not even ask about the price nor the quantity of the stuff when it was handed over to him? Considering that the thrust of the prosecution is that appellant sold marijuana to the government agents in their buy-bust operation, the prosecution should have at least enlightened the court on how Sgt. Reyno and appellant, as buyer and seller, respectively, came to agree on the quantity of marijuana and the price therefor. The absence of such conversation engenders serious doubt on whether there was any sale of marijuana at all.

In addition, Sgt. Reyno's credibility, to Our mind, has been seriously eroded. Witness Donato Cabanlit clearly narrated how Sgt. Reyno and his team, as a matter of practice, would "plant" marijuana on hapless victims and then demand money from them in return for a whitewash. Although the trial court may have reason for doubting Cabanlit's credibility as he was "disgruntled" when Sgt. Reyno did not render assistance to him when his child got sick despite previous agreement for payment of his services as informer,[21] We find it difficult to believe that

Cabanlit merely concocted the story just to get back at Sgt. Reyno. For, in the process of unraveling the vicious modus operandi of the government agents concerned, Cabanlit was also incriminating himself by admitting his participation in the nefarious operations.[22] In this case of Rolando Quetua, Cabanlit admitted that he was even the one who got the two (2) tea bags from the office cabinet where they were kept. It is not likely that a person would sacrifice his reputation and risk prosecution just to get even with someone. It is even probable that the fact that Sgt. Reyno did not help him in his time of dire need served as the catalyst for Cabanlit to end his silence and expose the nefarious activities of the apprehending team which were in fact the subject of an expose' in the 30 June 1988 issue of a local newspaper, entitled "Narcom Team's Relief Sought,"[23] which however the trial court did not admit in evidence.

Under the circumstances, a cloud of doubt has been seriously cast on the credibility of Sgt. Reyno on whose testimony hinges the cause of the prosecution.

The rule is that the accused does not have the burden of proving his innocence to avert a conviction; rather, it is for the prosecution to overcome the constitutional presumption of innocence and establish the guilt of the accused with proof beyond reasonable doubt. We emphasize this with greater force in the case at bar where violation of "The Dangerous Drugs Act," particularly Sec. 4, Art. II, is visited with such stiff penalty as life imprisonment to death[24] and a fine ranging from P20,000.00 to P30,000.00.

By this reversal, We are not holding that appellant is innocent, but that the prosecution failed to establish his guilt with the required quantum of proof, i.e., proof beyond reasonable doubt.

WHEREFORE, the decision finding the accused ROLANDO S. QUETUA alias "Raul" guilty of violating Sec. 4, Art. II of R.A. 6425, is REVERSED and SET ASIDE, and the accused is ACQUITTED on the ground of reasonable doubt.

SO ORDERED.

Cruz, (Chairman), Griño-Aquino, and Quiason, JJ., concur.

[1] Penned by Judge Cecilio F. Balagot, RTC, Br. 35, Gapan, Nueva Ecija.

[2] Exh. "F", Original Records, p. 87.

[3] Exh. "A", Ibid., p. 88.

[4] Not admitted by the trial court for having been obtained in violation of the constitutional rights of the accused.

[5] Exh. "B", Original Records, p. 5.

[6] Exh. "C", Ibid., p. 3.

[7] Exh. "D", Ibid., p. 7.

[8] TSN, 29 June 1988, p. 8.

[9] TSN, 20 July 1988, p. 6.

[10] Ibid., p. 30.

[11] TSN, 26 July 1988, pp. 6-7.

[12] Ibid., p. 10.

[13] TSN, 20 July 1988, p. 22.

[14] Ibid., p. 17.

[15] Technical Report No. NB-176-87 (Exhibit E), Original Records, p. 89.

[16] TSN, 28 June 1988, p. 13.

[17] TSN, 25 May 1988, p. 24.

[18] TSN, 26 May 1988, p. 12.

[19] TSN, 24 May 1988, pp. 8-10.

[20] People vs. Alilin, G.R. No. 84363, 4 March 1992, 206 SCRA 772, 777.

[21] TSN, 20 July 1988, p. 27.

[22] Ibid., p. 17.

[23] Full text of the article reads:

"CABANATUAN CITY - Nueva Ecija Gov. Eduardo Joson has sought the relief of the entire staff of the narcotics command team in Nueva Ecija because of 'mounting charges of extortion, harassment, maltreatment of suspects and other unlawful conduct.'

"In a telegram to Brig. Gen. Cesar Nazareno, commander of the PC-INP in Region III, Joson said the NarCom team is a 'blackeye to the military because of what they are doing in Nueva Ecija.'

"The relief of the Narcom personnel was sought by Joson after he received a letter complaint from 43 signatories citing those charges. The complainants also accused the team of planting evidence, illegal searches of houses, grave threats, robbery and rape.

"The letter complaint was filed with the office of the governor by former Fiscal Vidal Tombo, a human rights lawyer.

"The Narcom, meanwhile, charged that the complaint against the team was only meant to harass them. T/Sgt. Pablito Reyno, NarCom officer-in-charge for Nueva Ecija, denied the charges, saying these were concocted by persons who had been apprehended and are now facing charges for violation of the drug laws" (Exh. "2", Records, p. 109).

[24] Death penalty is now prescribed under the 1987 Constitution.

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