

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ADELINA CASTILLER Y CASTRO, DEFENDANT-APPELLANT.

G.R. No. 87783. August 06, 1990

Ponente: CORTES, J.

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CORTES, J.:

Appellant Adelina Castiller y Castro was charged with and convicted of violation of Section 4, Art. II of Rep. Act No. 6425, as amended, otherwise known as the Dangerous Drugs Act, under an information which read:

That on or about the 17th day of April, 1988, in the Municipality of Taguig, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the said accused, without having been authorized by law, did then and there wilfully, unlawfully and feloniously sell, deliver and give away to another two (2) foils of dried marijuana fruiting tops and was found to be in possession of the following: one (1) Ajinomoto plastic bag containing 545 grams of dried marijuana fruiting tops, ten (10) sticks of marijuana cigarette wrapped with white paper and five (5) newspaper wrappers each with dried marijuana fruiting tops having a total weight of 20.77 grams, which is a prohibited drug.

Contrary to law [Rollo, p. 4.]

Upon arraignment, appellant, assisted by counsel, entered a plea of “not guilty” to the offense charged. Trial ensued with the prosecution and the defense presenting their own witnesses and evidence to support their respective versions of the events leading to the arrest of the accused-appellant.

According to the prosecution witnesses, composed mainly of police officers, at around nine o’clock in the morning of April 18, 1988, the anti-narcotics intelligence division of the Taguig Police Station received information from an undisclosed caller that marijuana was being sold by an old woman in a small store in North Daang Hari Street, Taguig [TSN, June 29, 1988, p. 4; TSN, October 7, 1988, p. 2.] Immediately, Capt. Ferdinand Santos organized a team composed of police officers Felixberto Maog (team leader), Jesus Chan, Joselito Lintad, Jessie Pasion, Ruel Viring and Carlos Mendibel in order to conduct a buy-bust operation [TSN, June 29, 1988, p. 4.] Pat. Mendibel, assigned to act as poseur-buyer, was briefed by Capt. Santos separately from the other members of the team who were to serve as back-up [TSN, August 2, 1988, pp. 3-4.] and was later handed a twenty-peso bill to be used to purchase marijuana in the buy-bust operation [TSN, June 29, 1988, p. 3; TSN, August 10, 1988, p. 14.]

Around noontime, the plainclothes team arrived at North Daang, Hari. Indeed, they found an old woman in a small store in No. 303 North Daang Hari, which Pat. Jessie Pasion pointed out to Mendibel as the subject of the operation. The other members of the team in the meantime positioned themselves some fifteen (15) meters away from the store [TSN, October 7, 1988, p. 2.] Pat. Mendibel went to the store, and said to the appellant: “La, paiskor ng dalawang foil” [TSN, July 15, 1988, p. 3.] Appellant went inside the store and came back with two (2) foils of marijuana which she gave to Pat. Mendibel. Taking the marijuana foils, Pat. Mendibel introduced himself as a police officer [TSN, July 15, 1988, pp. 3-4.] Appellant, upon learning that her “customer” was in fact a police

officer, scampered into the back of her store and locked herself inside even before Pat. Mendibel could hand over the twenty-peso bill in payment of the foils of marijuana [TSN, August 10, 1988, p. 15.] Pat. Mendibel immediately gave the pre-arranged signal to inform his teammates that the operation had indeed yielded marijuana, and to get their assistance in arresting the appellant [TSN, October 7, 1988, p. 3.] The police officers knocked at the door but appellant refused to open the door. Later however, she voluntarily opened the door when the police officers, still knocking, asked permission to be allowed inside her store [TSN, August 10, 1988, pp. 16-17.]

When the police officers went inside, appellant pointed to a large gray container placed beside some cases of softdrink [TSN, August 10, 1988, p. 4.] They found a hole at the bottom of the large gray plastic container, and stored inside were a plastic “Ajinomoto” bag containing substances which appeared to be marijuana leaves, ten (10) sticks of what appeared to be marijuana cigarettes, five (5) foils of what appeared to be marijuana leaves wrapped in newspaper, six (6) packs of “Capitol” brand rolling paper and a red leatherette bag [Exhibits “G”, “C”, “D”, “E”, “H-1” to “H-6” and “H” respectively.]

Appellant and the confiscated evidence were brought to the police station. Pat. Santiago Villa, the officer assigned to conduct the investigation, informed appellant of her constitutional rights. Stating only her name and her desire to consult her lawyer [TSN, August 25, 1988, p. 5,] appellant opted to remain silent.

The seized specimen, along with a letter-request dated April 18, 1988 signed by Capt. Ferdinand Santos, were then brought to the PC Crime Laboratory at Camp Crame so that tests could be conducted on the substances which appeared to be marijuana.

The laboratory analysis conducted by P/Capt. Lina C. Sarmiento found the specimens to be “positive for marijuana, a prohibited drug” [Chemistry Report No. D-348-88, Exhibit “A”; and Certificate of Laboratory Result, Exhibit “J”] i.e., a plastic bag containing 545 grams dried marijuana fruiting tops, ten (10) sticks of marijuana cigarettes wrapped with white paper, and the five (5) newspaper wrappers each with dried marijuana fruiting tops having a total weight of 20.77 grams.

On the other hand, the defense presented a different version of the events that transpired.

According to appellant, she lived in a squatter area where the only source of water was an artesian well located one house away from her store [TSN, February 14, 1989, p. 4.] People usually had to queue up in order to get water from said well. Those living nearby habitually left their water containers at appellant’s store which they later claimed when the need arose [TSN, February 14, 1989, p. 4.] Appellant testified that on the night before the alleged buy-bust operation took place, one “Magda” was the last person to leave her water container at the store [TSN, January 10, 1989, p. 2.] The next day, at around 11:30 in the morning, a group of men, strangers to appellant, approached her in her store. One of them suddenly held her at her right side and informed her that she would be brought to the police precinct. Appellant protested and asked if he had a warrant, but the man did not answer her [TSN, January 10, 1989, p. 3.] The others went inside her store and began searching the place. Appellant was brought to the police precinct while the others continued searching her store [TSN, January 10, 1989, pp. 3-4.] Appellant denied knowledge of the articles inside the gray container which was seized from her store but she admitted that she recognized the gray container to be Magda’s [TSN, January 10, 1989, p. 4.]

Two other witnesses were presented for the defense. Carmelita Ramos testified that, like some five other neighbors of appellant, she usually left her water container at the latter’s store, and claimed it when she needed to fetch water from the well again [TSN, February 14, 1989, pp. 3-4.] On the other hand, Rebecca De los Santos testified that in the evening of April 17, 1988, she saw a certain woman leave her water container at appellant’s store, and heard the name “Magda” mentioned [TSN, February 14, 1989, p. 2.]

The trial court, giving credence to the evidence of the prosecution, found that appellant was caught in flagrante delicto delivering marijuana. Furthermore, the trial court held that appellant's possession of considerable quantities of marijuana indicates the intention to sell, distribute or deliver the same, and that she was "really engaged in the illicit trade of marijuana." The dispositive portion of the judgment of conviction reads:

WHEREFORE, the Court hereby sentences the accused, ADELINA CASTILLER Y CASTRO to suffer the penalty of reclusion perpetua with all its accessory penalties, to pay a fine of P20,000 and to pay the costs.

In the service of her sentence, the accused shall be credited in full with the period of her preventive imprisonment.

Pursuant to Section 20, Article II of Republic Act No. 6425, as amended, let the 545 grams of dried marijuana fruiting tops, ten (10) sticks of marijuana cigarette and another 20.77 grams of dried marijuana fruiting tops in five (5) newspaper wrappers subject matter of this case be turned over to the Dangerous Drugs Board Custodian, NBI, to be disposed of according to law.

Pursuant to Article 45 of the Revised Penal Code, the gray plastic container (Exhibit "G"), the red leatherette bag (Exhibit "H") and six (6) packs of rolling paper (Exhibits "H-1" to "H-6") are hereby ordered confiscated and forfeited in favor of the Government.

SO ORDERED.

Appellant assails the decision of the trial court in this appeal, assigning the following errors:

I

THE TRIAL COURT ERRED IN GIVING CREDENCE TO THE TESTIMONIES OF THE PROSECUTION WITNESSES AND IN TOTALLY DISREGARDING THE VERSION OF THE DEFENSE.

II

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED DESPITE HER UNLAWFUL ARREST AND ILLEGAL SEARCH AND SEIZURE UPON HER PREMISES.

III

THE TRIAL COURT ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF VIOLATION OF SECTION 4, ARTICLE II OF R.A. 6425, AS AMENDED. [Appellant's Brief, p. 1.]

Ultimately, this case presents only one issue: whether or not appellant was proven guilty of the crime charged beyond reasonable doubt.

After a thorough perusal of the evidence of both parties, we find that indeed, as sufficiently established by the prosecution, appellant is guilty of the crime charged.

The testimonies of the prosecution witnesses substantially covered the circumstances of each and every stage of the crime, and the resulting arrest, search and seizure. The buy-bust operation team leader (Pfc. Felixberto Maog) testified as to the circumstances leading to and the formation of the entrapment scheme. The poseur-buyer (Pat. Mendibel) positively identified appellant as the woman who delivered two (2) foils of marijuana to him, and along with a member of the "back-up" (Pat. Jesus Chan), testified as to the incidental search conducted on the store, and the prohibited drugs thereon. The case investigator (Pat. Santiago Villa) testified on the investigation made on appellant and the examination of the seized articles after the arrest, search and seizure, and the forensic chemist

(P/Capt. Lina Sarmiento) found the seized articles submitted for examination to be positive for marijuana.

We find their testimonies to be clear, lucid, straightforward and uncontradicted on all material points.

There is nothing in the record to suggest that the police officers were compelled by any motive other than to accomplish their mission to capture appellant in the execution of the crime. The presumption being that police officers perform their duties regularly in the absence of any evidence to the contrary [Rule 131, Section 5 (m), Rules of Court; *People v. Natipravat*, G.R. No. 69876, November 13, 1986, 145 SCRA 483; *People v. De Jesus*, G.R. Nos. 71942-3, November 13, 1986, 145 SCRA 521; *People v. Claudio*, G.R. No. 72564, April 15, 1988, 160 SCRA 646], their testimonies are entitled to full faith and credence [*People v. Patog* G.R. No. 69620, September 24, 1986, 144 SCRA 429.]

On the other hand, the defense did not put up a substantial defense other than the denial of the accused. It is well-settled that mere denials cannot prevail against positive identification of appellant as the seller of the prohibited substances [*People v. Khan*, G.R. No. 71863, May 23, 1988, 161 SCRA 406; *People v. Paco*, G.R. No. 76893, February 27, 1989, 170 SCRA 681.]

Furthermore, the testimonies of defense witnesses Rebecca de los Santos and Carmelita Ramos do not buttress appellant's case. At best, they present minor details which neither substantiate appellant's denial of the charges nor strengthen the claim of an arrest and search totally wanting in legal basis.

Curiously, appellant never made any effort to locate "Magda", the alleged owner of the container filled with the prohibited substances, in order to have her arrested. Certainly in a case where her own life and liberty were at stake, the victim of a wrongful accusation would have earnestly, nay even desperately, sought ways to vindicate herself by at least assisting the police in order to have the true offender apprehended. Appellant's inaction becomes all the more baffling considering that, by her own admission, she had known "Magda" for about a year, they lived on the same street (North Daang Hari), "Magda" fetched water at the artesian well just one house away from appellant's store everyday, and even bought things from the store [TSN, January 10, 1989, pp. 2, 6.]

Collaterally, appellant would now attack the decision by putting at issue the validity of the buy-bust operation, the failure of prosecution to produce the "buy-bust money", and the legality of the arrest and the incidental search and seizure.

Appellant underscores in its arguments the admission by the police officers that at the time they set out to conduct the operation, they did not know who their exact "target" was, having acted solely on a tip given by a caller who merely described the marijuana seller to be an old woman in a store on North Daang Hari, but gave no specific name. From this allegation, the defense concluded that no buy-bust operation had in fact taken place, and that the prosecution merely concocted the story in order to justify an unlawful arrest resulting from an "intense enthusiasm to respond to the unidentified caller" [Appellant's Brief, pp. 7-8.]

This contention is devoid of merit.

The buy-bust operation is a recognized means of entrapment for the apprehension of drug pushers [*People v. Gatong-o*, G.R. No. 78698, December 29, 1988, 168 SCRA 716.] This is so because the very characteristic of prohibited drugs -- i.e., their being easily concealed and transferred without threat of detection in small and handy quantities, -- allows its sale, use and delivery with relative facility. Contrary to appellant's contention, no surveillance of the area or the subject of the entrapment is necessary where the police officers had, as in this case, reasonable ground to believe that the informer and the information given were reliable, and that a crime is indeed being perpetrated. The buy-bust operation was formed by the police officers precisely to test the veracity of the tip and in order to apprehend the perpetrator, if he in fact commits the offense, before he further endangers society.

Besides, the tip given describing an old woman keeping a store at North Daang Hari as a drug pusher sufficiently and accurately points to the appellant. There was no arbitrariness on the part of the poseur-buyer in approaching appellant, who exactly fit every detail of the description given.

The defense further belabors its theory that no entrapment was effected by pointing to the fact that the twenty-peso bill allegedly used in the buy-bust operation and later submitted in evidence was not even marked, thereby rendering the alleged buy-bust operation all the more dubious [Appellant's Brief, p. 8.]

Again, we find no merit in this argument.

Although the alleged buy-bust money was indeed unmarked, nevertheless, this fact alone will not suffice to weaken the prosecution's case. Pat. Mendibel testified that he was informed by his immediate superior who handed him the money that it was marked [TSN, June 29, 1988, p. 5; TSN, August 10, 1988, p. 14.] Apparently however, Mendibel, who joined the police service barely four months earlier [TSN, June 29, 1988,] failed to personally check whether it was marked. As correctly noted by the Solicitor General, Mendibel was still a "tyro" in such operations, this being his first drugs case [Appellee's Brief, p. 14; Rollo, p. 84,] and he was obviously unfamiliar with the manner in which buy-bust operations are conducted.

Be that as it may, the failure to mark the bill is not fatal to the case because the Dangerous Drugs Act punishes "any person who, unless authorized by law, shall sell, administer, deliver, give away to another, distribute, dispatch in transit or transport any prohibited drug, or shall act as a broker in any of such transactions [Underscoring supplied.]" In this case, the police officer sought to buy two sticks of marijuana and his offer was accepted by appellant who produced and delivered the same. The crime was consummated by the mere delivery of the prohibited goods even without money changing hands.

As to the issue of the legality of appellant's warrantless arrest and the warrantless search, we find that both arrest and incidental search were made well within the bounds of the law.

The 1985 Rules on Criminal Procedure provide that:

Sec. 5. Arrest without warrant; when lawful. - A peace officer or a private person may, without a warrant, arrest a person:

- a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;
- b) When an offense has in fact just been committed and he has personal knowledge of facts indicating that the person to be arrested has committed it;

* * *

In cases falling under paragraphs (a) and (b) hereof, the person arrested without a warrant shall be forthwith delivered to the nearest police station or jail, and he shall be proceeded against in accordance with Rule 112, Section 7. [Rule 113, Section 5; 1985 Rules on Criminal Procedure.]

Both of the above-cited instances of a lawful warrantless arrest are attendant in this case. Appellant was caught in flagrante delicto delivering to the poseur-buyer two (2) sticks of marijuana. The offense was committed in the presence of the police officer, and therefore the latter had personal knowledge of the commission of the offense. Under the circumstances, appellant's arrest was lawfully effected without need of a warrant.

Furthermore, where, as in this case, the person to be arrested attempts to evade the same, the Rules on Criminal Procedure allow a peace officer, in order to make a lawful warrantless arrest, to "...break into any building or enclosure in which the person to be arrested is or is reasonably believed to be, if he is refused admittance thereto,

after he has announced his authority and purpose” [Section 11, Rule 113, 1985 Rules on Criminal Procedure.] In the case at bar, the police officers did not have to break into the premises since appellant voluntarily allowed the law officers inside the store. Therefore, the entry by the law enforcers into the store in order to effect appellant’s arrest was perfectly lawful.

As to the validity of the search conducted upon the premises of appellant’s store and the consequent seizure of incriminating evidence found therein, this Court finds that both search and seizure were valid.

That searches and seizures must be supported by a valid warrant is not an absolute rule [Manipon, Jr. v. Sandiganbayan, G.R. No. 58889, July 31, 1986, 143 SCRA 267.] Among the exceptions granted by law is a search incidental to a lawful arrest under Section 12, Rule 126 of the Rules on Criminal Procedure, which provides that “[a] person lawfully arrested may be searched for dangerous weapons or anything which may be used as proof of the commission of an offense, without a search warrant.” In such an instance, a contemporaneous search may be conducted upon the person of the arrestee and the immediate vicinity where the arrest was made [Nolasco v. Pano, G.R. No. 69803, January 30, 1987, 147 SCRA 509], as was done in this case. The inclusion of the seized items in the evidence for the prosecution cannot be challenged as they were seized in conformity with the provision on lawful searches.

All told, this Court is convinced that appellant Adelina Castiller had indeed committed the offense as charged. The assailed decision must be upheld. The trial court aptly quoted the dictum of this Court in the case of People v. Abedes [G.R. No. 73399, November 28, 1986, 146 SCRA 132]: “A drug pusher is a killer without mercy. He poisons the mind and deadens the body. He deserves no mercy.” Our society has every right to be protected from the potential and actual harm wrought by prohibited drugs.

WHEREFORE, the decision appealed from is hereby AFFIRMED.

SO ORDERED.

Fernan, C.J., Gutierrez, Jr., and Feliciano, JJ., concur.

Bidin, J., on leave.

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