

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ERNESTO CINA Y GASPAR, @ “ERNESTO VILLANUEVA Y
GASPAR”; DEFENDANT-APPELLANT.**

G.R. No. 88220, October 01, 1990

Ponente: CORTES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-88220/>

CORTES, J.:

Before Us is an appeal brought by Ernesto Cina, charged and convicted for the violation of Section 4, Article II of Republic Act No. 6425 otherwise known as the Dangerous Drugs Act.

This case finds its origin in two separate informations filed against the accused before the Regional Trial Court on April 14, 1983. For the sale of prohibited drugs in violation of Section 4, Art. II, Rep. Act No. 6425, the information [Criminal Case No. 427-D] against appellant Ernesto Cina reads as follows:

That on or about the 9th day of April, 1987, in the Municipality of Marikina, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without having been authorized by law, did then and there willfully, unlawfully and feloniously sell and deliver to another person 4.33 grams of dried Marijuana fruiting tops, which are prohibited drugs.

Contrary to law. [Record, p. 1.]

The other information [Criminal Case No. 428-D] charged him with the possession of prohibited substances under Section 8, Art. II of Rep. Act No. 6425, thus:

That on or about the 9th day of April, 1987, in the Municipality of Marikina, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without having been authorized by law, did then and there willfully, unlawfully and feloniously have in his possession, custody and control five (5) tea bags of marijuana fruiting tops which are prohibited drugs.

Contrary to law. [Record, p. 2.]

Upon arraignment, appellant pleaded "not guilty" to both charges. During trial, the accused filed a motion to quash the information charging him with possession of marijuana. In support thereof, the accused invoked the ruling in *People v. De Jesus* [G.R. Nos. 71942-43, November 13, 1986, 145 SCRA 521,] wherein the Court held that possession is inherent in the crime of selling prohibited drugs and therefore, the charges for both possession and sale, when alleged to have been committed in one occasion, must not be filed in separate informations. Finding merit in the "Motion to Quash" (which is actually a motion to dismiss having been filed after the accused was arraigned and entered his plea), the trial court dismissed the charge of possession of marijuana.

Trial thereupon ensued. As found by the trial court, the evidence of the prosecution showed that:

On April 9, 1987 at 10:00 in the evening, Sgt. Paterno C. Panaga of the Narcotics Command unit of the AFP posed as a buyer of two tea bags of marijuana from herein accused. The transaction took place near the

crossing of Marcos Highway and Sumulong Avenue, Marikina, Metro Manila. Immediately after the exchange of two (2) tea bags of marijuana for P20.00, Sgt. Panaga raised his right hand as a signal for Capt. (now Major) Edwin Balongay and Sgt. Ciriaco Contreras to apprehend said accused, which was accordingly done. The body of the accused was thereupon searched and Capt. Balongay recovered the P10.00 bill and two (2) P5.00 bills which were marked "X5" for identification purposes from the left front pocket of accused and five (5) tea bags of marijuana. The seven (7) tea bags are found to be positive of marijuana by the PCCL [PC Crime Laboratory]. (TSN, Testimonies of Capt. Edwin Balongay, Sgt. Paterno Panaga and Sgt. Ciriaco Contreras and P/Capt. Lina Sarmiento, Hearings of August 4, 1987, December 8, 1987, January 26, 1988, February 17, 1988, May 9, 1988, August 22, 1988 and October 13, 1987; Exhibits G, B-1, B-2, B-3, E and F).

[RTC Decision, pp. 1-2; Rollo, pp. 16-17.]

On the other hand, the facts of the case as alleged by the defense were:

On April 9, 1987 starting 7:00 in the evening, he was the companion of a driver known to him only as Bert. He was seated beside driver Bert in front of the passenger jeepney plying the Marikina-Pasig route, giving change to passengers. At 10:00 in the evening, the driver noticed the tire of the jeepney as having not enough air and so they parked the jeep in the vulcanizing area of the shop located at Marcos Highway and E. Rodriguez Avenue, Pasig, Metro Manila. After the driver alighted from the jeepney, an orange car stopped at the back of the jeep and a man who he later found out to be Sgt. Panaga boarded at the back of the jeep and asked him if the jeep is going to Cubao, Quezon City. After he explained [that] it will not because they will have the tire fixed, Sgt. Panaga placed his forearm against his neck and told the kumpadre of the driver Bert seated beside [the] accused in front of the jeep not to move. Three (3) other companions of Sgt. Panaga searched the jeepney with a flashlight until finally they found the 7 tea bags of marijuana at the back of the mirror of the jeepney. Accused told the searchers that he was not the owner of the jeep but he did not call driver Bert who he saw hiding behind a post while the search was going on. After the tea bags of marijuana were found, he and the kumpadre of Bert [were] taken to Camp Crame in the orange car. They were brought inside the office of Capt. Balongay. Bert arrived soon thereafter. Accused was then brought outside the office while Bert and his kumpadre were left in said office for a while but accused never saw the two again. Accused insists that he did not know anything about the tea bags found in the jeep and that he never sold marijuana.

Accused admitted on the witness stand that he was under probation at the time he was apprehended; that he first gave his name to the group of Capt. Balongay as Ernesto Villanueva and then admitted in Marikina Jail where he was brought later, that his real name is Ernesto Cina. (TSN, Hearings of September 13, and 27, 1988).

[RTC Decision, p. 2; Rollo, p. 17.]

Giving credence to the case as established by the prosecution, the trial court rendered a decision finding the accused guilty as charged, the dispositive portion of which reads:

In view of all the foregoing, the Court finds [the] accused ERNESTO CINA y GASPAR @ "ERNESTO VILLANUEVA y GASPAR" GUILTY of the crime of Violation of P.D. No. 6425, as amended, otherwise known as the Dangerous Drugs Act of 1972, the prosecution having established his guilt beyond reasonable doubt; and, pursuant to Section 4 of said Act, as amended by P.D. No. 1675, hereby imposes upon him to suffer the penalty of life imprisonment and to pay a fine of Twenty Thousand (P20,000.00) pesos.

The Clerk of Court is ordered to immediately turn over the seven (7) tea bags of marijuana marked as Exhibits E-1, E-2, F-1, F-2, F-3 and F-4 together with all the plastic containers / plastic bags, Exhibits E and F, to the Dangerous Drugs Board for proper disposal thereof without delay.

SO ORDERED.

In this appeal, the sole error assigned by appellant is that the accused's guilt was not established beyond reasonable doubt.

Upon careful perusal of the memoranda of the parties and the record of the case, this Court is convinced that Ernesto Cina was indeed guilty of selling prohibited drugs. We affirm the accused's conviction.

In support of his claim of innocence, appellant impugns the credibility of the prosecution witnesses by putting at issue minor inconsistencies in their testimonies. First, appellant argues that the repeated referral by prosecution witnesses to the prohibited substances as "marijuana leaves" when the information charged the sale of marijuana fruiting tops casts doubt as to the identity of the substances brought to the crime laboratory for examination.

The argument is devoid of merit.

We closely examined the testimonies of police officers Capt. Edwin Balongay, Sgt. Paterno Panaga and Sgt. Ciriaco Contreras, and the forensic chemist Lina Sarmiento. They were united and consistent in testifying that two tea bags were sold to the poseur-buyer, that five more were later found in the left front pocket of the accused when he was frisked by the police officers immediately after he was apprehended, and that all seven tea bags of the prohibited substances were subsequently submitted to the laboratory for analysis, and found positive for marijuana [TSN, January 26, 1988, pp. 7-8, 11; February 17, 1988, pp. 3; August 4, 1987, p. 8; December 8, 1987, p. 3; May 9, 1988, pp. 6, 9; August 22, 1988, p. 5; TSN, October 13, 1987, pp. 5-6.] It is apparent therefore that although the term "marijuana leaves" was used in their testimonies, the prosecution witnesses were referring particularly to the marijuana fruiting tops found and seized. Whatever disparity in the use of words was clarified by Sgt. Contreras during cross-examination:

* * *

Q. - And upon examining them, you found out that they were marijuana leaves?

A. - Yes, sir. I know that it is marijuana. But it should be brought to the PC Crim. laboratory to verify if it is really marijuana.

Q. - But they were in leaf form?

A. - They were stalks with leaves and flowers, attached with some seeds, sir.

* * *

[TSN, August 22, 1988, p. 6; Underscoring supplied.]

On his part, appellant himself admitted, that seven tea bags of marijuana were indeed found by the police officers that night [TSN, September 13, 1988, p. 8, 20; September 27, 1988, p. 6.] Moreover, during the trial, he never questioned the identity of the corpus delicti of the crime, the tea bags of marijuana.

Considering the undisputed testimonies of both prosecution and defense that marijuana was found and seized that fateful night of April 9, 1987, this Court finds that there is really no question as to the identity of the marijuana seized from the accused and that mentioned in the information. The defense's insistence that some significance be given to the disparity in the words used during the testimonies ("marijuana leaves") and those which appeared in the information ("marijuana fruiting tops"), is, inconsequential.

Appellant dwells further on other inconsistency in the testimonies of prosecution witnesses, particularly the number of persons involved in the buy-bust operation. He pointed out that Capt. Balongay testified that there were six members in the team that went out to conduct the buy-bust operation while Sgt. Panaga stated that there were four, including the informer whose identity was never revealed [Appellant's Brief, p. 6; Rollo, p. 41, comparing

TSN of August 4, 1987, p. 4 and January 26, 1988, pp. 4-5.]

The argument is untenable.

The record reflects that the principal participants in the buy-bust operation, i.e., the poseur-buyer and the apprehending officers, positively identified the accused as the one who committed the offense. They testified clearly as to the circumstances of the crime and the arrest, search and seizure. The details as to the exact number of the police officers in the buy-bust team are unnecessary. It is well-settled that minor inconsistencies in statements given during testimony will not affect the credibility of the prosecution witnesses [People v. Tunhawan, G.R. No. 81470, October 27, 1988, 166 SCRA 638; People v. Natipravat, G.R. No. 69876, November 13, 1986, 145 SCRA 483.]

In his attempt to further discredit the prosecution's case, appellant points out that the buy-bust money should have been marked with "ultra violet marks", allegedly the standard operating procedure [Appellant's Brief, p. 6; Rollo, p. 41.]

The contention is, again, untenable.

That the use of ultra violet marks is "standard operating procedure" is a conclusion totally bereft of basis. It was an allegation which was never proved during trial. Furthermore, as correctly noted by the Solicitor General, where the amount involved is small, practical considerations would negate the use of expensive ultra violet chemicals for marking purposes [Appellee's Brief, p. 12; Rollo, p. 75.] At any rate, it was precisely the handwritten markings which enabled the police officers to identify the money used in their operation. Clearly therefore, the purpose of marking the money was sufficiently and adequately served.

Appellant belabors his theory on the improbability of his committing the offense by arguing that it is contrary to human experience for a drug pusher to sell to a total stranger.

The argument is unmeritorious.

It matters not that the buyer and the drug pusher are unfamiliar with each other. The crucial matter is their agreement and the acts constituting the sale and delivery of the prohibited substances [People v. Tejada, G.R. No. 81520, February 21, 1989, 170 SCRA 497.] In the present case, although there were serious risks in selling marijuana to a virtual stranger, apparently, the lure of profit overcame such consideration.

Finally, this Court finds that, as opposed to the clear and straightforward manner in which the prosecution presented its case, the accused dismally failed to support his claim of innocence and to present a meritorious defense other than his flimsy denial. Although appellant admitted that there were then several vendors in the vicinity where he was arrested, that he knew the owner of the jeepney, that he had often in the past ridden in said jeepney and even assisted the driver "Bert" in collecting the fares from the passengers, and that the "kumpadre" of the jeepney owner was seated beside him when he was unlawfully apprehended [TSN, September 13, 1988, pp. 5-7, 14-17,] curiously, he never made an effort to locate any one of them either to corroborate his claim of innocence or to determine the true owner of the marijuana. Such passivity can hardly be expected of an innocent man, more so where his very life and liberty are at stake, and ultimately indicates pretended innocence [People v. Castiller, G.R. No. 87783, August 6, 1990.]

Considering all the foregoing, this Court finds that appellant's guilt was, indeed, established with moral certainty. He must be penalized to the full extent of the law.

WHEREFORE, the decision of the trial court is hereby AFFIRMED in toto.

SO ORDERED.

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

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.