

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
EMMANUEL GUINTO AND FEDERICO VALENCIA,
ACCUSED-APPELLANTS.**

G.R. NO. 88400. April 06, 1990

Ponente: CRUZ, J.

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CRUZ, J.:

As counsel for the prosecution in criminal cases on appeal, the Solicitor General usually supports the decision of the trial court and asks for its affirmance. In the rare case now before us, he instead questions the conviction of the accused-appellants and moves for their acquittal.[1]

Emmanuel Guinto and Federico Valencia were charged with violation of the Dangerous Drugs Act for having sold 28.83 grams of dried marijuana fruiting tops.[2] After trial, they were found guilty by Judge Eutropio Migriño of the Regional Trial Court of Pasig, Metro Manila, and sentenced to life imprisonment.[3]

The trial court found that on October 7, 1986, a team of the Narcotics Command conducted a "buy-bust" operation against the two accused-appellants at Hulo, Mandaluyong, Metro Manila. The team leader was Sgt. Salvador Aladano, who acted as the poseur-buyer and dealt directly with Guinto, to whom he gave the marked money for the marijuana he was pretending to buy. Guinto left to get the narcotic and returned with Valencia. Upon receipt of the marijuana, Aladano gave the pre-arranged signal and the rest of the team then arrested the two accused-appellants.[4]

The above findings were based on the sworn narration of Pat. Benjamin Vitug, whom the trial court found to be "positive, clear and convincing in his testimony" and without any motive for framing the accused-appellants, and the exhibits submitted by the prosecution. Among these were a receipt for the seized marijuana, signed by Valencia;[5] the dried marijuana fruiting tops themselves;[6] and the chemistry report thereon[7] by Capt. Nelly Cariaga of the PC Crime Laboratory who explained and confirmed her findings when she testified at the trial.

Both Guinto and Valencia denied the charge against them and were corroborated by Socorro Valencia, the latter's wife. Guinto claimed that in the evening of October 7, 1986, while he was cooking, Sgt. Aladano and Pat. Vitug entered his yard and arrested him after their companion, Boni Sapatero, pointed to him as a marijuana seller.[8] There was no warrant of arrest. He was handcuffed and taken to a waiting vehicle and they then proceeded to look for Valencia, whom the agents also arrested in his house.[9] Valencia said his house was searched without warrant, but the peace officers found nothing.[10] The two were later taken to Camp Crame, where they were investigated without the assistance of counsel and detained.[11] Guinto and Valencia were forced to sign a paper they were not allowed to read, which turned out to be the receipt for the marijuana later offered as Exhibit "A." [12]

The trial judge expressed disbelief, pointing out that while Valencia and his wife swore that they had visitors when the Narcom agents entered their house, none of the visitors was presented at the trial for corroboration. He noted that while the wife testified that the officers knocked on their door, the husband disagreed, saying they just

"barged in." The couple also differed on the number of Narcom agents composing the team, the husband saying there were five while the wife said there were six of them.[13] These claimed defects were considered substantial enough by the trial court to justify rejection of the evidence for the defense.

There seems to be a misconception here. The trial court apparently believed it was for the defense to prove that the accused-appellants were innocent, not for the prosecution to prove that they were guilty. Settled is the rule that innocence is presumed; it is guilt that must be proved. Yet the decision emphasized the supposed shortcomings of the defense (as trivial as they were) while accepting in one brief paragraph the testimony of Pat. Vitug as the correct account of the commission of the crime.

The decision did not observe that the case for the prosecution had its own flaws too, and more serious at that than those it noted in the defense evidence. The Citizens Legal Assistance Office specifies many of these defects in its well-prepared brief for the accused-appellants. The Office of the Solicitor General adds its own criticism of the prosecution evidence and also prays for the reversal of the judgment.

It is significant that the principal protagonist from the Narcom team in the buy-bust operation, the agent who posed as the buyer and allegedly dealt directly with Guinto and Valencia, was not presented at all at the trial. This was Sgt. Salvador Aladano, whose silence is not a little intriguing. One may well ask why he did not testify when he was the person on top of the operation, so to speak, and actually negotiated with the accused-appellants. He was the logical witness, but he was never called to the stand.

In *People v. Rojo*, [14] decided only last year, this Court held that the failure of the prosecution to present the alleged buyer of the marijuana was a fatal flaw in the case against the accused.

The rest of the team, including Pat. Vitug, merely watched surreptitiously as the negotiation was going on and had at best only a peripheral view of the transaction. Like the other team-members who were waiting to make the arrest, Vitug could only observe covertly, and from a distance, as Aladano transacted with Guinto and Valencia. The poseur-buyer was Aladano, not Vitug. Yet it was Vitug and not Aladano whom the prosecution chose to testify on the details of the alleged sale.

No wonder Vitug's testimony was conflicting and confusing if not concocted. As the Solicitor General notes, this witness offered no less than four inconsistent versions of how the crime was committed by the accused-appellants, all of which, analyzed together, reflected on his credibility.

In the first version, Vitug said they arrested Guinto after he received the marked money but there was no mention at all of the delivery of the marijuana to him or of the presence of Valencia.[15] In the second version, Vitug had a change of mind and said there was a simultaneous exchange of the money and the marijuana between Aladano and Guinto, but again made no mention of Valencia's participation.[16] In the third version, Vitug, becoming more complicated, said Aladano delivered the money to Guinto, who then left to get the marijuana, after which the team arrested Guinto, who then led them to Valencia.[17] There was still a fourth version, where Vitug contradicted himself again and said the team arrested the two accused-appellants not separately but together when they all returned to Guinto's house after the supposed sale.[18]

In addition to these inconsistencies, the Court notes that Guinto had not known Aladano earlier when they met, apparently for the first time, at the appointed place on October 7, 1987.[19] There was therefore no reason for the two to trust each other, more so since they were negotiating an illegal transaction. Yet, in one of Vitug's four versions of the crime, Aladano willingly gave the marked money to Guinto and then naively allowed him to leave (with the money) to get the marijuana. It would have been more believable if Aladano had waited for the marijuana first before paying for it, as befitted a cautious buyer who had not met the seller until then.

Curiously, the marked money was not offered in evidence, and for the quaint reason that it was delivered to some unknown and mysterious person.[20] It is not explained why this was done. Not even the serial numbers of this alleged payment were given at the trial although Vitug claimed he had carefully noted them down before the buy-bust operation.[21]

The prosecution did present the supposed receipt for the marijuana allegedly confiscated from the accused-appellants,[22] but both Guinto and Valencia claim they were forced to sign the paper without being allowed to read it, and in the absence of counsel.[23] This has not been refuted. That receipt is completely worthless and should not have even been admitted, much less considered by the trial court. In the recent case of *People v. Turla*,[24] Justice Teodoro Padilla wrote thus of a similar matter:

The Court agrees with counsel for the accused-appellant that the Receipt for Custody (Exh. B) is inadmissible in evidence, as it was signed by the accused during custodial investigation without the assistance of counsel of his choice and without having been first informed of his constitutional right to silence and to counsel. The said Receipt is a declaration against interest and a tacit admission of the crime charged, since mere unexplained possession of prohibited drugs is punished by law. The Receipt is in the same category as extrajudicial confessions outlawed by the Constitution.

Coming back to the decision, we find the following perplexing observation:

Emmanuel Guinto testified that the Narcom team did not find anything when they searched the house of the accused Federico Valencia. Yet, the defense did not explain where the Narcom team was able to get the 28.83 grams of marijuana fruiting tops, Exhibit E.

This is nothing if not amazing. The trial court was actually asking the defense where the narcotics agents got the marijuana if it was not from Valencia's house. By some strange process of reasoning, the judge was saying that because of their denials, the accused-appellants were now under obligation to explain where else the narcotics team might have gotten the marijuana. This is really incredible. Even this Court is nonplused. Illogically, the trial court was in effect asking the accused-appellants: "Where did the agents get the marijuana if it was not from Valencia's house?" The only logical and common sense answer to such a queer question would be: "How should we know?"

The principle has been dinned into the ears of the bench and the bar that in this jurisdiction accusation is not synonymous with guilt. The accused is protected by the constitutional presumption of innocence which the prosecution must overcome with contrary proof beyond reasonable doubt. This Court has repeatedly declared that even if the defense is weak, the case against the accused must fail if the prosecution is even weaker, for the conviction of the accused must rest not on the weakness of the defense but on the strength of the prosecution. Indeed, if the prosecution has not sufficiently established the guilt of the accused, he has a right to be acquitted and released even if he presents naught a shred of evidence.

In *People v. Tempongko*,[25] this Court, applying the above principles, declared:

The theory of the prosecution has too many loose ends that it has failed to tie up to the satisfaction of this Court. The guilt of the appellant has not been established beyond doubt and so cannot be affirmed in this appeal. The defense is weak, to be sure, but for all the persuasive arguments of the Solicitor General and the private prosecutor, this Court remains unconvinced that the appellant raped the complainant. The appellant may have been lying, and there is evidence of this, but we are not prepared to accept, to the point of moral certainty, that the complainant was telling the truth. The ambiguous evidence of the prosecution cannot justify our condemning the appellant to prison for the rest of his life where there are whispers of doubt that he is guilty.

So too must it be in the case before us. The accused-appellants have been condemned for life by an improvident sentence based on uncertain evidence clearly insufficient to sustain their conviction. It is their guilt and not their innocence that has been presumed. It is their innocence and not their guilt that should have been pronounced. In these circumstances, only one thing that has to be done if the Constitution is to be observed and justice is to be served: Guinto and Valencia must be released at once.

WHEREFORE, the appealed judgment is REVERSED and the accused-appellants are ACQUITTED. It is directed that the accused-appellants must be released IMMEDIATELY. No costs.

SO ORDERED.

Narvasa, (Chairman), Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] Solicitor General's Manifestation and Motion (in lieu of appellee's brief) submitted on February 23, 1990, p. 22, Rollo, p. 72.

[2] Rollo, p. 4.

[3] Decision, p. 3, rollo, p. 14.

[4] Ibid., pp. 12-13.

[5] Exhibit "A," original records, p. 90.

[6] Exhibits "E," "E-1," Ibid., p. 94.

[7] Exhibit "F," Id., p. 95.

[8] Decision, p. 2, rollo, p. 13.

[9] Ibid.

[10] TSN, July 27, 1987, pp. 3-4.

[11] TSN, July 20, 1987, pp. 6-7.

[12] Ibid., TSN, July 27, 1987, pp. 4-6.

[13] Decision, p. 3, rollo, p. 14.

[14] G.R. No. 82737, July 5, 1989.

[15] Solicitor General's Manifestation and Motion (in lieu of appellee's brief) dated February 20, 1990, p. 2, rollo, p. 52.

[16] Ibid, p. 53.

[17] id., p. 54.

[18] id.

[19] TSN, March 10, 1987, pp. 8-9.

[20] Ibid., pp. 11-13; TSN, March 24, 1987, pp. 6-7.

[21] TSN, March 24, 1987, pp. 7-8.

[22] Exhibit "A," original records, p. 90.

[23] TSN, July 20, 1987, pp. 6-7; TSN, July 27, 1987, pp. 5-6.

[24] 167 SCRA 278.

[25] 144 SCRA 583.

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