

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARIO BARREDO VALERIANO, ACCUSED-APPELLANT.

G.R. No. 88697. July 31, 1990

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

This is an appeal from the Decision[1] promulgated on 24 May 1989 by the Regional Trial Court (RTC), National Capital Judicial Region, Branch 156, Pasig, finding Appellant Mariano Barredo Valeriano guilty of violation of Section 4, Article II, R.A. No. 6425, as amended by Section 1, P.D. No. 1675 (1980), for selling marijuana, and sentencing him "to suffer the penalty of reclusion perpetua with all its accessory penalties, to pay a fine of Twenty Thousand Pesos (P20,000.00), and to pay the costs."

The evidence for the prosecution substantially discloses that:

On 11 August 1988, at around 5:00 o'clock in the afternoon, constabulary officers of the 13th Narcotics Regional Unit, Camp Crame, Quezon City, received confidential information that a certain Mario (later identified as Mario Barredo Valeriano and hereinafter referred to as Appellant) was engaged in the illicit trade of marijuana somewhere along J.P. Rizal St., San Juan, Metro Manila (TSN, 15 February 1989, p. 2). To verify this information, Captain Carlos Villafuerte immediately formed a team composed of Sgt. Roberto Angeles, Sgt. Jaime Raposas and Sgt. Armando Isidro as members and himself as leader (*ibid.*). The team was then led by the confidential informant to J.P. Rizal Street (*ibid.*, p. 3).

At J.P. Rizal Street, Sgt. Jaime Raposas and Sgt. Armando Isidro, upon instructions, acted as lookouts (*ibid.*) while the confidential informant together with Sgt. Roberto Angeles, who posed as a buyer, approached and asked Appellant where marijuana could be bought. The latter inquired how much of the stuff was needed and Sgt. Angeles replied P100.00. The Appellant told them to wait as he had to see if marijuana was available (TSN, 23 November 1988, p. 9). He then left and talked to a bald man, later identified as Brando Manuel, who was standing about three (3) arms lengths away (*ibid.*). A few moments later, Mario returned, asked for money and was handed a marked one hundred peso bill by Sgt. Angeles (TSN, 20 January 1989, p. 2). Mario then gave the marked money to the bald man who immediately left the place; after a few minutes, the bald man reappeared, handed a transparent plastic bag to Appellant who, in turn, gave it to Sgt. Angeles (*ibid.*, pp. 2-3). After inspecting the contents of the bag and determining that it contained marijuana, Sgt. Angeles gave a pre-arranged signal to his teammates who rushed to the scene and effected the arrest of Appellant (Record, Affidavit of Sgt. Roberto Angeles, p. 111, TSN, 20 January 1989, p. 5; 15 February 1989, p. 3). However, the bald man was able to elude the Narcom officers bringing with him the marked money. When interrogated, Appellant revealed the name of the bald man as Brando Manuel.[2]

Appellant was taken to Camp Crame where the Narcom officers prepared a "Receipt for Property Seized" but which Appellant refused to sign in the space provided for "Owner of the Seized Item" (Exhibit "B"). The confiscated marijuana (Exhibit "D") was then indorsed the next day, August 12, to the PC Crime Laboratory at

Camp Crame for examination through a letter-request prepared by the Narcom team (Exhibit "E"). After tests were conducted, Forensic Chemist Lt. Tita Advincula found and declared the subject specimen as positive for marijuana (Exhibit "C").

The defense presents another version:

Appellant Mario Valeriano y Barredo, 25 years old, single, part-time worker, and residing at No. 174 Don Emilio Ejercito, San Juan, Metro Manila, testified that on 11 August 1988 at about 5:00 o'clock in the afternoon, he was at J.P. Rizal Street, San Juan, in front of a small store, together with some friends when a group of persons approached him and inquired about a certain Brando (TSN, 14 March 1989, p. 4). He responded by pointing to Brando who was standing nearby. Sgt. Angeles then approached Brando and bought marijuana contained in a plastic bag from the latter (*ibid.*). Brando immediately left after the sale but the group remained and later approached him again to ask where Brando resided. This time, Appellant refused to answer because, as he claimed, he was not acquainted with the members of the group. He theorizes that because of his refusal he was arrested (*ibid.*, pp. 6-7). One of his companions at J.P. Rizal Street and also a long time friend, Rolando Martinez, 44 years old, married, driver, and residing at No. 10, Claro Suarez Street, San Juan, Metro Manila, corroborated his testimony (*ibid.*, pp. 1-2).

In other words, Appellant denies having sold the marijuana in question, or being a "runner" of Brando, or having received the marked P100.00 bill. He claims that the team dealt directly with Brando and that he had no participation whatsoever in their transaction.

After appreciation of the evidence before it, the Trial Court rejected Appellant's version, rendered a judgment of conviction, and imposed this sentence:

"Wherefore, finding the accused Mario Valeriano y Barredo guilty beyond reasonable doubt of the offense charged, he is hereby sentenced to suffer the penalty of reclusion perpetua with all its accessory penalties, to pay a fine of twenty thousand Pesos (20,000.00) and to pay the costs.

"SO ORDERED.

"Pasig, Metro Manila, May 24, 1989."

Hence, this appeal.

The records show that Appellant's original counsel, Atty. Jose Brillantes, had orally manifested to the Court that the accused was ready to enter a plea of guilty to the lesser offense under Section 8 of the Dangerous Drugs Law (Original Record, p. 42), but apparently nothing came out of it, presumably because of the change of lawyers due to the illness of Atty. Brillantes.

Appellant argues that even the evidence presented by the prosecution itself supports his contention that he never participated in selling marijuana and that he was arrested by the Narcom officers merely because of his refusal to reveal the residence of Brando Manuel, the actual seller (Rollo, pp. 21-22, Appellant's Brief).

He also asserts that "the prosecution witnesses categorically stated that they are not sure that the marijuana sent to the PC Crime Laboratory is the very same specimen they confiscated from the accused as there are no markings made on the plastic transparent bag containing the said marijuana before it was submitted for laboratory examination" (*ibid.*, p. 22); and that the very testimony of Lt. Lita Advincula, the chemist who conducted the examination of the marijuana specimen, reveals that there is doubt as to whether the marijuana brought to Court is the same marijuana examined by her (*ibid.*, pp. 22-23).

Finally, he claims that if it were true, as testified to by the arresting officers, that they received information that

Appellant was briskly conducting his business of selling marijuana, then, the officers should have obtained more than just one hundred pesos worth of marijuana and should have arrested other buyers as well (ibid. p. 23).

We find the defense submissions unconvincing.

The evidence for the prosecution sufficiently establishes that Appellant was caught in the act of selling one hundred pesos (P100.00) worth of marijuana, a prohibited drug, to Sgt. Angeles, a constabulary officer, who posed as a marijuana buyer in accordance with the instructions of his superior officer. Sgt. Angeles testified that Appellant received the marked money from him; delivered the same to the bald man, Manuel Brando; obtained marijuana in a plastic bag from the latter, and delivered the same to Sgt. Angeles. These transactions were easily observed by the lookouts Sgts. Jaime Raposas and Armando Isidro who, after being signalled, immediately assisted in apprehending Appellant.

Appellant's stance that when he was approached by the team, he was immediately asked for the whereabouts of Brando is hardly credible considering that the only individual disclosed by the confidential informant to the narcotics officers was "Mario." "Brando" was unknown to them as, in fact, they referred to the latter in their testimonies only as "the bald man." In fact, it was only Mario who had revealed the latter's name as "Brando." And if the officers had bought directly from Brando, as Appellant would have us believe, they would have been able to apprehend him on the spot and he would not have been able to escape.

The evidence does establish that Appellant was a "runner", as, in fact, it took him no time at all to contact Brando for the marijuana that the poseur-buyer allegedly wanted to acquire. Appellant's pretense that he was arrested merely because he refused to reveal Brando's residence to the constabulary officers flies in the face of contrary evidence.

That the marked money could not be presented as an exhibit should not detract from the prosecution evidence, there being an obvious explanation therefor - Brando had managed to escape bringing with him the marked money.

Further, Appellant's assertion that Sgt. Jaime Raposas and Sgt. Armando Isidro doubted the identity of the marijuana presented in evidence to the Court is without basis. On the contrary, the records reveal that said officers categorically testified that they recognized the marijuana contained in a transparent plastic bag and presented to them in Court for identification as the same item which they had confiscated from Appellant (TSN, 20 January 1989, p. 4; TSN, 15 February 1989, p. 4). Such recognition arises from the fact that at the time the officers arrested Appellant, Sgt. Angeles, who was then in possession of the marijuana contained in a plastic bag, showed to them the item he had "bought" from Appellant (ibid.); soon after, Sgt. Angeles submitted the confiscated item to their Camp Crame Office where it was marked (TSN, 20 January 1989, p. 6); and, after inspection (ibid., p. 5), it was immediately indorsed the next day to the Narcotics Investigation Section/Unit (ibid. p. 3) which then submitted it to the PC Crime Laboratory for examination (TSN, 23 November 1988, p. 6), which agency put its own marking (TSN, 5 January 1989, p. 5). Proper steps were, therefore, sufficiently taken to safeguard the specimen.

Contrary to Appellant's contention, the testimony of the PC Crime Laboratory Chemist, Lt. Tita Advincula, clearly shows that the marijuana brought to Court is the same marijuana examined by her. A letter-request from the Narcotics Command, dated 12 August 1988 (Record, Exhibit "E", p. 113), for the examination of marijuana was received by the Chemistry branch of the PC Crime Laboratory (TSN, 5 January 1989, p. 5). Pursuant to this request, Lt. Advincula received the confiscated plastic bag containing marijuana, marked and initialed it. She then took random portions of the specimen marijuana from the plastic bag for examination. After tests were conducted, she reported that the portions she examined and later threw away were, indeed, marijuana. Obviously, the rest of

the plastic pack from which samples were taken and which were submitted to the Court (ibid., p. 4) would also be positive for marijuana. In Court, she declared that the marijuana in a plastic bag being presented to her for identification was the same item which she received at the PC Crime Laboratory and the contents of which she had examined as shown by the markings thereon (ibid. p. 5).

Appellant's attempt to inject doubt regarding the truthfulness of the confidential information received by the Narcom officers merits little attention since the fact remains that he was caught in the act of selling marijuana. His role was that of a "runner" or "broker" of Brando Manuel, which act is covered by Section 4, Article II, R.A. No. 6425 as amended, which punishes any unauthorized persons who would "sell, administer, deliver, give away to another, distribute, dispatch in transit or transport any prohibited drug or would act as broker of any such transaction." The minimal amount bought by the undercover Narcom officer and the fact that no other buyers from him were apprehended are actually irrelevant considerations for the determination of his guilt.

WHEREFORE, the judgment appealed from is **AFFIRMED** except that the penalty should be life imprisonment pursuant to Section 4 of P.D. No. 1675 and not "reclusion perpetua" as imposed by the Trial Court. Costs against accused-appellant, Mario Barredo Valeriano.

SO ORDERED.

Paras, Padilla, Sarmiento, and Regalado, JJ., concur.

[1] Penned by Judge Martin S. Villarama Jr.

[2] On 20 October 1988, the Information was amended to include the bald man, Brando Manuel, as conspirator (Record, p. 36). He was not arraigned and is still at large.

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