

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROLANDO PACLEB Y DAY-AT, ACCUSED-APPELLANT.

G.R. No. 90602. January 18, 1993

Ponente: REGALADO, J.

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REGALADO, J.:

Accused-appellant Rolando Pacleb y Day-at was charged on April 30, 1987 in Criminal Case No. 4584-R of the Regional Trial Court of Baguio City, Branch 6, with a violation of Section 4, Article II of the Dangerous Drugs Act of 1972 (Republic Act No. 6425, as amended) allegedly committed as follows:

"That on or about the 23rd day of April, 1987, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without any authority of law, did then and there wilfully, unlawfully and feloniously sell and deliver to Operatives of the First Narcotics Command, Armed Forces of the Philippines, stationed at Camp Bado Dangwa, La Trinidad, Benguet, posing as buyer(s), fifty (50) grams of dried marijuana leaves, knowing fully well that the article is a prohibited drug, in violation of the aforecited provision of law."^[1]

Appellant, with the assistance of his counsel, pleaded not guilty when arraigned on August 25, 1987.^[2] Trial on the merits commenced on November 26, 1987 and the case was submitted for decision on July 13, 1989.

The People's detailed and documented account of the antecedental facts of this case closely corresponds with the findings of the court a quo, and the same is best reproduced hereunder:

"The evidence for the prosecution showed that in the morning of April 23, 1987, the First Regional Unit, Narcotics Command (Narcom) of the Philippine Constabulary with sub-office at No. 20 Quisumbing Subdivision, Trancoville, Baguio City received an information from one of its confidential agents that a certain 'Roland', or appellant, a member of a drug syndicate, was selling or acting as runner in the sale of marijuana dried leaves somewhere at the Hangar market in Baguio City. First Lt. Rolando Macusi, acting on said confidential information, formed and briefed a team of operatives to conduct a buy-bust operation. He designated Sgt. Godofredo Fider to pose as buyer, with Sgt. Domingo Pejuro and A2C Serafint Artizona as back-up team. Fider was furnished the amount of one hundred pesos (P100.00) in different denominations consisting of one (1) fifty peso bill, two (2) twenty peso bills and one (1) ten peso bill, which had been xeroxed before the start of their mission (pp. 2-4, 6-9, t.s.n., November 26, 1987).

"At about 10:00 o'clock in the morning of the same day, the operatives proceeded to the Hangar Market, with Sgt. Fider and the confidential informer going together to contact the pusher 'Roland', while Sgt. Pejuro and A2C Artizona were following behind and strategically positioning themselves at the vicinity of the said Market so as to be able to see what will transpire between Fider and 'Roland'. At the time of their arrival, their quarry, or appellant, was standing in front of the Pat Beauty Parlor in the vicinity of the Market (pp. 3-4, 7-9, t.s.n., November 26, 1987).

"The confidential informant introduced Sgt. Fider to 'Roland', or appellant, as somebody who was interested in buying marijuana. Appellant inquired from Fider about the quantity of marijuana he wanted to buy and Fider

ordered one hundred (100) grams of marijuana dried leaves. Appellant said that said quantity will cost one hundred pesos (100.00) and demanded that he be paid first as he will get the stuff somewhere else. Fider gave appellant the amount demanded and the latter left after telling them to wait for him. The operatives waited for appellant for about an hour (pp. 4-6, t.s.n., November 26, 1987).

"At about 11:00 o'clock in the morning, appellant came back and gave Fider a brown paper bag (Exh. 'D-1' and series) and told the latter that the same contained the ordered stuff. Fider examined the content of the bag and after having ascertained that it was really marijuana, made the pre-arranged signal to his back-up team by scratching the right portion of his head. There-upon, Sgt. Pejuro and A2C Artizona closed in and rushed to the scene and identified themselves as Narcom agents. Fider and his companies then placed appellant under arrest for selling the marijuana dried leaves. They frisked appellant and recovered from him a twenty peso bill with serial number N 622586 (Exh. 'B') which was a part of the original amount (of) one hundred pesos (P100.00) in different denominations paid to appellant for subject marijuana leaves (pp.6-9, t.s.n., November 26, 1987).

"After appellant's arrest, he and the marijuana leaves in question were brought to the Narcom sub-office at Quisumbing Subdivision, Trancoville, Baguio City for investigation. Later, appellant escaped from said place but was re-arrested by Sgt. Pejuro. The confiscated marijuana leaves (Exh. 'D-1' and series) were subsequently forwarded to the PC/INP Crime Laboratory at Camp Bado Dangwa and a request for laboratory examination and analysis thereof (Exh. 'D') (was) made by the Narcom (pp. 9-11, t.s.n., November 26, 1987).

"After several tests or examinations were conducted on said marijuana leaves or specimen (Exhibit 'D-1' and series) by Lt. Noelita Pineda and Capt. Elias Canapi at aforesaid Crime Laboratory, the specimen (Exh. 'D-1' and series) was found to be positive for marijuana. (Exh. 'E' and 'F') by said officers and experts (pp. 2-9, t.s.n., May 28, 1988)."[3]

On the other hand, appellant's version of the events that led to his arrest purports to show that at about nine o'clock in the morning of April 23, 1987, he was performing his usual tasks as a "cargador" at the Hangar Market in Baguio City when a friend, Cristopher Viduya, approached him and tried to hand over a brown envelope of the type used for business letters. As he was busy loading vegetables, he did not accept the envelope and, instead, carried on with his work. After a while, he left his friend Viduya presumably to deliver the vegetables. When appellant came back five minutes later to the spot where he left Viduya, he was suddenly arrested by two men, one of whom he later identified as Sgt. Godofredo Fider.[4]

Appellant was then brought to the NARCOM Headquarters at Trancoville, Quisumbing Subdivision in Baguio City where he was interrogated. During the investigation, Viduya arrived and turned over a brown envelope containing dried marijuana leaves which allegedly belonged to appellant. When appellant vehemently disclaimed ownership of the envelope and its contents, Sgt. Fider offered the former his freedom in exchange for P5,000.00. Appellant answered that he did not have that much amount of money.[5]

After assessing the evidence adduced at the trial, the court a quo, in its decision dated August 18, 1989[6] found appellant guilty beyond reasonable doubt of the offense charged and accordingly sentenced him to suffer the penalty of life imprisonment and to pay a fine of P20,000.00, without subsidiary imprisonment in case of insolvency, and to pay the costs. It also ordered the confiscation and forfeiture of the marijuana in favor of the government for its proper disposition, and credited appellant in the service of his sentence with four-fifths (4/5) of the period of his preventive imprisonment.[7]

Appellant's motion for reconsideration of the verdict having proved futile, this appeal is now before us, assigning the same sole error as that raised in the motion for reconsideration, that is, that the court a quo gravely erred when it convicted appellant, considering that the prosecution's physical evidence is inconclusive to establish the crime charged.[8]

The plaint of appellant is centered on the fact that the corpus delicti of the offense imputed to him has supposedly

not been proved by the prosecution. His basis for that argument is that while in the information it is alleged that he was caught selling fifty grams of dried marijuana leaves, what was submitted, as reflected in Chemistry Report No. D-048-87,[9] is only thirty-five grams, and since the prosecution failed to establish that this thirty-five grams of marijuana was part of the fifty grams seized from him, his conviction should therefore be overturned.

We have perforce to deny the relief sought in this appeal. We are convinced that the guilt of appellant has been sufficiently proven beyond peradventure of doubt by the evidence on record. On the other hand, his aforesaid thesis is completely devoid of merit, if not altogether ridiculous.

It has been held that "(p)ersons who sell prohibited drugs deserve the severe sanctions of the law for the misery they spread among our people, especially the youth, many of whom have forfeited their future because of the evil influence of the drugs." [10] For that purpose, however, indispensable in every prosecution for illegal sale of marijuana, a prohibited drug, is the submission of proof that the sale of the illicit drug took place between the poseur-buyer and the seller thereof, and the presentation further of the marijuana as evidence in court. [11]

Now, as long as the corpus delicti of the crime, which in this case consists of the brown envelope and the dried marijuana leaves contained therein, has been established with certainty and conclusiveness, the conviction of the accused for illegal sale in violation of Section 4, Article II of the Dangerous Drugs Act can be sustained. [12]

Contrary to appellant's assertion, it was clearly shown by the prosecution that the brown envelope and its contents of marijuana which were submitted for examination at the PC Crime Laboratory, and later introduced in evidence in the court below, were the very same items taken from appellant. Prosecution witnesses Sgt. Godofredo Fider, the poseur-buyer; Sgt. Domingo Pejuro, one of Fider's companions during the buy-bust operation; and Police Lieutenant Noelita Pineda, the forensic chemist at Camp Bado Dangwa, all testified categorically on this indisputable fact. Sgt. Fider likewise, with substantial corroboration from Sgt. Pejuro, narrated with clarity and consistency the circumstances as to how the transaction involving the prohibited drug transpired and was concluded between him and appellant.

According to Fider, he and the confidential informant were approached by appellant at the Pat's Beauty Parlor near the Hangar Market. Pacleb apparently knew the police informant. The latter then introduced Fider as a prospective buyer and after some bargaining, it was agreed that one hundred grams of marijuana would be delivered for the price of P100.00. Appellant then left after being handed the agreed price. An hour later, he returned and gave to Fider a brown envelope which, upon examination, yielded dried marijuana leaves. [13] This whole chain of events was witnessed by Sgt. Pejuro as he was posted about ten meters away from Fider and appellant. [14]

The record further bears out the fact that after effecting the arrest of appellant, the NARCOM operatives brought him and the confiscated marijuana to the PC Headquarters in Trancoville for investigation. There, both Sergeants Fider and Pejuro affixed their respective signatures on the brown envelope containing the prohibited merchandise. [15] The following day, April 24, 1987, the same envelope with its contents were forwarded through one Sgt. Baylo to the PC Crime Laboratory at Camp Bado Dangwa for analysis. [16]

There were two examinations that were conducted on the specimen thus submitted. The first, made by forensic chemist Capt. Elias Canapi, yielded affirmative results as shown in Technical Report No. D-048-87 earlier mentioned. The second was undertaken by Lt. Noelita Pineda, also a forensic chemist at Camp Bado Dangwa, and her Chemistry Report No. D-078-88, [17] likewise showed that the specimen was positive for marijuana. Lt. Pineda testified that she applied the modified Duquenois-Levines test and the thin layer chromatography examination both of which, according to her, were precisely undertaken in order to make sure that the specimen examined is indeed positive for marijuana. [18]

At the trial, Sgt. Fider, Sgt. Pejuro and Lt. Pineda categorically identified the confiscated objects taken from appellant Pacleb, hence clearly establishing the case for the prosecution. Thus:

Sgt. Godofredo Fider

"DIRECT EXAMINATION BY FISCAL CENTENO:

q

Sgt. Fider, during your last testimony, you were asked whether you could identify the marijuana taken from the accused Rolando Pacleb on April 23, 1987. If you are shown that item which you confiscated from the accused Rolando Pacleb, will you be able to identify the same?

a

Yes, sir.

q

I am showing to you a brown paper bag already marked as Exhibit 'D-1' for the prosecution, will you please go over this if that brown paper bag contains marijuana.

a

This is the same marijuana which we confiscated from the accused Rolando Pacleb, sir.

q

Why do you say that the items contained in Exhibit 'D-1' are the marijuana confiscated from the accused Rolando Pacleb?

a

I have my signature appearing in this brown paper bag.

q

You said that you have your signature on the brown paper bag. Will you please point to the Honorable Court your signature?

a

This, sir (witness pointing to a signature in black sign pen with the date 23 April 1987.)"[19]

Sgt. Domingo Pejuro

"q

Now, if you see the item which you saw being held by Sgt. Fider at the time of the arrest, will you be able to identify the same?

a

Yes, sir.

q

Now, you said a while ago that you will be able to identify the same if you will see it again. I am showing to you an item already marked as Exhibit 'D-1' for the prosecution. Will you please go over this if this is the same item which you saw being held by Sgt. Fider at the time he effected the arrest?

a

This is what was handed by the accused to Sgt. Fider. My signature appears there.

FISCAL CENTENO:

Witness pointing to a signature above the writing 23 April 1987. May we pray, Your Honor, that this signature identified by the witness be marked as EXHIBIT 'D-1-b'.

COURT:

Mark it.

FISCAL CENTENO:

q

Was this the same condition of the item at the time you arrested the accused Rolando Pacleb?

a

Yes, sir. It is the same."[20]

Sgt. Noelita Pineda

"q

Now, it says on Entry No. 1 of Exhibit 'D', Madame Witness, that the specimen was delivered to your office on April 24, 1987, a brown paper bag containing approximately 50 grams of suspected marijuana drug leaves. Do you have the brown paper bag containing the 50 grams of suspected marijuana dried leaves?

a

Yes, sir (witness bringing out from [a] bag a brown paper bag).

q

Now, how do, you know, Madame Witness, that this is the same brown paper bag containing approximately 50 grams of suspected marijuana leaves in connection with Exhibit 'D'?

a

Because it has my initial.

x x x

q

Now, you said that it contains your initial, Madame Witness. Will you please point to your initial found in Exhibit 'D-1'?

a

This is my initial (witness pointing)."[21]

On the bases of all the foregoing testimonies of the prosecution witnesses, there can be no doubt, then, that the body of the crime charged has been amply demonstrated and conclusively established. The circumstance that there is a disparity between the investigation report of the police authorities and that of the forensic chemists as to the amount or weight of the marijuana taken from the appellant is of no moment and too insignificant to affect the

evidence for the prosecution. The established fact is that there was marijuana taken from appellant pursuant to a buy-bust operation and the same was tested positively as such. Furthermore, it appears that proper security measures for the turning over of the marijuana from the PC Headquarters to the crime laboratory at Camp Bado Dangwa were duly observed such that there could not have been any substitution.

It must also be noted that Sgt. Fider was not sure of the actual and precise weight of the marijuana when the same was handed to him by appellant on April 23, 1987, the same being then wrapped in a newspaper placed inside a brown paper bag. Furthermore, the same was examined only on May 1, 1988, or more than one year later, hence it was but natural that the same had by then completely dried up and shrunk, necessarily resulting in its decreased weight.

Credence is generally accorded to the testimonies of prosecution witnesses who are enforcers of the law as they are presumed to have performed their duties in a regular manner.[22] More so where, as in this case, appellant has opted to invoke the inherently weak and standard defenses of denial and frame-up. It is axiomatic, under the rules of evidence, that said defenses can not prevail when arrayed against the positive testimonies of prosecution witnesses.[23]

Finally, it may be pertinent to once again reiterate here our pronouncement in *People vs. Policarpio*,[24] our statements therein being as true now as they were then:

"Drug addiction is one of the most pernicious evils that has ever crept into our society. More often than not, it is the young who constitute the greater majority of the citizenry who are the victims. It is of common knowledge that drug addicts become useless if not dangerous members of society and in some instances turn out to be among the living dead. This is the reason why the courts and law enforcement agencies should continue in their relentless campaign not merely to minimize but to totally eradicate the evil before it is too late. And everyone must be involved in this drive if we are to succeed. The peddlers of drugs are actually agents of destruction. They deserve no less than the maximum penalty."

It is regrettable that appellant Pacleb has chosen, in the "springtime of his youth," to align himself with the forces of the drug menace most of whose victims are of the same age and are his very own peers. It is, therefore, not only proper but imperative that his involvement in the nefarious trade of drug trafficking must this early be, as it were, nipped in the bud and that he be isolated from the community which he has wronged and to which he poses an undeniable threat.

WHEREFORE, the judgment of conviction appealed from is hereby **AFFIRMED** in toto, with costs against accused-appellant.

Narvasa, C.J., (Chairman), Feliciano, Nocon, and Campos, Jr., JJ., concur.

[1] Original Record, 1.

[2] *Ibid.*, 10.

[3] Brief for the Plaintiff-Appellee, 5-10; Rollo, 140-145.

[4] TSN, June 21, 1989, 3-4, 8-9.

[5] *Ibid.*, *id.*, 4-5.

[6] Per Judge Ruben C. Ayson.

[7] Original Record, 95-96.

- [8] Brief for the Appellant, 1; Rollo, 116.
- [9] Exhibit F; Original Record, 50.
- [10] *People vs. Kalubiran*, 196 SCRA 644 (1991).
- [11] *People vs. Sanchez*, 192 SCRA 653 (1991); *People vs. Napat-a*, 179 SCRA 403 (1989); *People vs. Macuto*, 176 SCRA 762 (1989).
- [12] *People vs. Rodriguez*, 205 SCRA 791 (1992); *People vs. Rubio*, 142 SCRA 329 (1986).
- [13] TSN, November 26, 1987, 3-7.
- [14] TSN, September 27, 1988, 4.
- [15] TSN, July 12, 1988, 2; TSN, September 27, 1988, 7-8.
- [16] TSN, November 26, 1987, 9; Exhibit "D"; Original Record, 48.
- [17] Exhibit E; Original Record, 49.
- [18] TSN, May 25, 1988, 7.
- [19] TSN, July 12, 1988, 2.
- [20] TSN, September 27, 1988, 7.
- [21] TSN, May 25, 1988, 4-5.
- [22] *People vs. De Jesus*, 205 SCRA 383 (1992); *People vs. Ramos, Jr.*, 203 SCRA 237 (1991).
- [23] *People vs. Andasa*, 206 SCRA 636 (1992); *People vs. De Mesa*, 188 SCRA 48 (1990).

[24] 158 SCRA 85 (1988).

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