

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RENATO ZAPANTA Y CENTENO @ BEBOT, ACCUSED-APPELLANT.

G.R. No. 90853. March 13, 1991

Ponente: GRINO-AQUINO, J.

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GRINO-AQUINO, J.:

The accused, Renato Zapanta, has appealed the decision of the Regional Trial Court of Cavite, Branch XVII, dated June 30, 1989 in Criminal Case No. 165-87 entitled, "People of the Philippines vs. Renato Zapanta y Centeno, alias Bebot," finding him guilty of drug-pushing, violation of Section 4, Article II of the Dangerous Drugs Act (Rep. Act No. 6425, as amended), sentencing him to suffer the penalty of reclusion perpetua, and to pay a fine of P20,000 without subsidiary imprisonment in case of insolvency, and costs.

The information against the accused alleged:

"That on or about July 7, 1987, in the City of Cavite, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without legal authority, did, then and there, wilfully, unlawfully, feloniously and knowingly deliver and sell to a poseur-buyer three (3) sticks of dried Indian hemp, otherwise known as marijuana.

"Contrary to law." (p. 8, Rollo.)

With the assistance of counsel de oficio, Zapanta pleaded "Not Guilty" to the charge. After trial, the court rendered the assailed decision.

Pat. Feliciano de la Cruz testified that in July, 1987, the Criminal Investigation and Intelligence Division of the Cavite City Police received reports of rampant selling of marijuana in the vicinity of Tabon, Bagong Pook, prompting them to conduct a discreet surveillance of persons suspected of selling prohibited drugs in that neighborhood (p. 20, Rollo).

On July 7, 1987 at around 4:30 p.m., the police was tipped that Zapanta was selling marijuana. A "crack-down team" was formed, composed of Pat. Eduardo Novero, Jr. and Pat. Feliciano de la Cruz, both investigators of the Criminal Investigation and Intelligence Division, and Pat. Facundo Baricuatro, Jr., a follow-up investigator of the Detective Bureau. They planned a buy-bust entrapment operation with the help of an informer, Danilo Vinzon, and a runner in the person of Romeo Boter, alias Toto Pilay, to buy marijuana cigarettes from Zapanta. Boter agreed to cooperate and received a marked P5-bill from the informer, Danny Vinzon, with which to buy a marijuana cigarette. They proceeded to the house of Zapanta, a one-room shanty in the San Antonio Cemetery in Bagong Pook. Pat. De la Cruz positioned himself behind the shanty, while Patrolmen Novero and Baricuatro stayed in front. Through one window, they could clearly, see Zapanta lying on a mat on the floor near the door. Boter went inside the hut and gave Zapanta the marked money, whereupon the policemen pounced on them, searched Zapanta's mat, pillow and blanket and poked into the pile of firewood stacked under the stairs. Finding one marijuana stick under the mat, they brought Zapanta and Boter to the police station where an investigation was conducted and Pat. Novero executed a sworn statement. The marijuana stick was submitted for examination

to the NBI. The forensic chemist confirmed that it was positive for marijuana. Zapanta was arrested for drug pushing and was confined in the City Jail.

Boter testified during the trial that he lived only four houses away from Zapanta. He alleged that Zapanta was selling marijuana for a living. However, he admitted on cross-examination, that Zapanta advised him to stop smoking marijuana, and that when the policemen raided Zapanta's hut, he (Boter) still had the marked money in his hand.

Both Patrolmen Baricuatro and De la Cruz testified on the arrest and corroborated Novero's testimony.

The accused, Renato Zapanta, testifying in his defense, stated that on July 7, 1987, in the afternoon, he was in his shanty, resting on the floor. He had been bed-ridden for two years, with an acute kidney infection which has not been treated medically because of his extreme poverty. His widowed 60-year old mother, Lourdes, who worked as a cemetery sweeper, and his widowed sister who worked as a laundrywoman, lived in the house with him. When the policemen arrived, they poked a gun at him and forced him to get up so they could search his mat, pillow, blanket and other things. After the search, they brought him to the City Jail where he was confined for two years since the time of his arrest. He denied that he was engaged in selling marijuana. The four P10-bills and two P5-bills which the police found in his pocket had been given to him by his sister to buy his medicine. He presented a Certification from the barangay captain, Eddie Torres, attesting to the fact that he was a law-abiding citizen in the community. However, Torres was not presented as a witness. Zapanta's sister corroborated him.

In this appeal, Zapanta alleges that the trial court erred:

1. in giving credit to the prosecution witnesses despite the gross inconsistencies in their testimonies;
2. in not requiring the prosecution to place the informer Danilo Vinzon on the witness stand; and
3. in finding the accused guilty of selling or pushing marijuana despite his physical disability and his poverty, which render him incapable of engaging in the business of trading in prohibited drugs.

We find the appeal meritorious.

There are irreconcilable inconsistencies on material points in the testimonies of the prosecution witnesses, which erode their credibility and weaken the case for the prosecution. The runner-buyer, Romeo Boter, during his direct testimony, declared that the informer, Danny Vinzon, was not with the policemen when the raid was conducted. On the other hand, Pat. De la Cruz testified that Danny Vinzon was present during the raid (p. 6, t.s.n., October 24, 1988).

Pat. Baricuatro testified on cross-examination that Danilo Vinzon was a "friend of mine." However, when he was asked later whether he knew Vinzon personally, he answered: "I do not know him, sir."

The information mentioned three (3) sticks of marijuana cigarette, while Boter testified that he bought only one (1) stick (pp. 1-24, t.s.n., November 11, 1987). Pat. De la Cruz stated that two and a half marijuana sticks were taken from Boter. (pp. 21-22, t.s.n., November 7, 1988), whereas Boter claimed that there were five (5) sticks (p. 27, t.s.n., October 24, 1987).

Apart from the uncertainty among the witnesses as to how many marijuana cigarettes, if any, were found in Zapanta's possession during the raid, the search in Zapanta's shack was made without a warrant, hence, the marijuana cigarette or cigarettes seized in that raid were inadmissible as evidence (*Nolasco vs. Paño*, 147 SCRA 510; *People vs. Aminnudin*, 163 SCRA 402).

The fact that the marijuana cigarette/s was/were not found on the person of the accused, that a single marijuana

cigarette was "confiscated" from Boter, not from Zapanta; that the marked P5 bill was not in Zapanta's possession; and that Zapanta was not selling marijuana when arrested by the police for he was sick in bed, clearly incapacitated, physically and financially, to engage in the drug traffic, are circumstances that engender serious doubts regarding his guilt. The constitutional presumption of his innocence remains unshaken.

The drug menace has assumed epidemic proportions in this country. While we strongly commend the efforts of law-enforcement officers who are engaged in the difficult and dangerous task of apprehending and prosecuting drug traffickers, the Court cannot close its eyes nor be deaf to the many reports of false arrests of innocent persons for extortion and blackmail, and, in some instances, to satisfy some hidden personal animosity of the "informer" or law enforcer against the accused. Courts should therefore be vigilant and alert to recognize trumped up drug charges lest an innocent man on the basis of planted evidence be made to suffer the unusually severe penalties for drug offenses (People vs. Garcia, 172 SCRA 262; People vs. Taruc, 157 SCRA 179).

WHEREFORE, the appealed decision is hereby reversed and set aside. The accused, Renato Zapanta y Centeno, is acquitted of the crime charged, and his immediate release from custody is hereby ordered unless he is being held to answer for another offense. Costs de oficio.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Medialdea, JJ., concur.

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