

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CARLITO MARTOS, ACCUSED-APPELLANT.

G.R. No. 91847. July 24, 1992

Ponente: NOCON, J.

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NOCON, J.:

In an ordinary appeal from the decision of the Regional Trial Court, Branch 53 of Rosales, Pangasinan, herein petitioner seeks the reversal of the same, the dispositive portion of which reads:

"WHEREFORE, the Court finds Carlito Martos guilty beyond reasonable doubt of the offense of selling marijuana, defined and penalized under Article II, Section 4 of Republic Act 6425, as amended, otherwise known as the Dangerous Drugs Act of 1972, and hereby sentences him to suffer the penalty of reclusion perpetua and a fine of P30,000.00, and to pay the costs." [1]

According to the Information dated March 20, 1989, the crime was committed as follows:

"That on or about the 1st day of February 1989, in barangay Carmen East, municipality of Rosales, Pangasinan, New Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused did then and there wilfully, unlawfully and feloniously sell, give away and deliver fifty (50) grams of dried marijuana leaves worth P50.00 to MSgt. Rogelio Raguine, an incognito NARCOM agent, a prohibited drug and without any authority of the law." [2]

The facts according to the version of the prosecution, reveal that on February 1, 1989, acting on the tip of a confidential informer (C.I.) or asset, a team from the First Narcotics Regional Unit based in Urdaneta, Pangasinan, composed of Sgts. Rogelio Raguine, Peregrino Benito and Ramon Padilla, went to Bgy. Carmen East, Rosales, Pangasinan at about 4:00 o'clock in the afternoon, in pursuit of a certain "Lito" who was engaged in selling marijuana to students and adults alike.

"Lito", whose full name is Carlito Martos, was washing his feet at the water pump near his house when Sgt. Raguine and the CI approached him. Sgt. Raguine, acting as posuer-buyer, was introduced by the CI to "Lito". The former then inquired if "Lito" had "stuff" for sale, and upon eliciting an affirmative answer, ordered P50.00 worth of stuff.

Lito went inside his house and returned after a while to where Sgt. Raguine and the CI were. He handed the stuff contained in a small plastic bag, to Sgt. Raguine while the latter gave Carlito Martos a P50.00 bill, which serial number was earlier recorded by him in a log book. [3] After being convinced that the content of the plastic bag was marijuana, Sgt. Raguine immediately signalled Sgts. Benito and Padilla, who were then positioned in separate places some 10 meters away from the water pump, to close in and effect arrest.

After identifying themselves as NARCOM agents, Sgts. Benito and Padilla seized Carlito Martos, but the latter was able to wrench himself free from his captors and escaped. The three agents pursued him, but when Carlito Martos heard a shot, he stopped running, raised his hands and surrendered. It turned out that the shot was fired

from the gun of Sgt. Padilla which accidentally hit the CI on the left arm.[4] Thereupon, Carlito Martos was brought to the NARCOM office in Urdaneta, Pangasinan.

The stuff, which was marked as Exhibit "D" was turned over to the PC/INP Crime Laboratory, Camp Crame, for analysis.[5] Lauena Layador, Assistant Chief of the Chemistry Branch of PC/INP Crime Laboratory Service conducted a microscopic, chemical and chromatographic examination, to determine whether the specimen submitted was marijuana.[6] The report, Exhibit "C" confirms the fact that the stuff was marijuana.[7]

In his defense, Carlito Martos, a jeepney conductor, testified that in the afternoon of February 1, 1989, between 4:00 and 5:00 o'clock, as he was washing his feet at a pump well, some 3 meters away from his house, he heard a person shout, "dadiay ni, dadiay ni, paltogan yon." He then saw three men coming down from the dike, two of whom drew their guns. Frightened, he tried to run away, but when he heard a shot, he stopped and raised his hands.

When the three men overtook him, one of them handcuffed him while the other two started hitting him with the butt of their guns, boxing and kicking him. As a tricycle was being called, one of the men took "a plastic bag with leaves inside" from his pocket and placed it in his hands.[8] Carlito refused to hold it and instead dropped the thing.[9] The above testimony was corroborated by two other defense witnesses.[10]

At the NARCOM station in Urdaneta, the agents tried to force appellant to sign a document, but the latter refused. The agents even called a CLAO lawyer who also insisted that he sign the documents since "there is nothing wrong" about it.[11] He claims that he was also forced to sign his name on a cellophane[12] and cajoled to settle the case for P25,000.00.[13] He was then jailed and only released at 1:00 o'clock the following day.[14]

In his appeal, Carlito Martos' argues that the evidence adduced by the prosecution is not sufficient to prove his guilt beyond reasonable doubt of the crime he was convicted of.[15] The Solicitor General joins the appellant in the latter's plea for acquittal.[16] They alleged that the testimonies of the prosecution witnesses are highly improbable, self-contradictory and contradictory. Thus, they outlined several inconsistencies in the testimonies of the prosecution witnesses.

There is no question that persons who sell prohibited drugs deserve the severest sanctions of the law for the misery they caused our people, especially the youth, many of whom have lost their future because of the evil influence of drugs. While this Court strongly commends the efforts of the law enforcement officers who are engaged in the difficult and dangerous task of apprehending and prosecuting drug traffickers, the Court cannot simply disregard the many reports of false arrest of innocent persons for extortion and blackmail.[17]

There is no dispute that the findings of facts of the trial courts deserve great weight and respect for they have the privilege of examining the demeanor of the witnesses while on the witness stand and determine the veracity of the their testimonies. The rule, however, admits of certain exceptions, such as (1) when the conclusion is a finding based entirely on speculations; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) where there is grave abuse of discretion; (4) when the judgment is based on misapprehension of facts; and (5) when the court, in making its findings, went beyond the issues of the case and the same are contrary to the admissions of both the appellant and the appellee.[18]

The case at bar calls for a careful scrutiny of the records due to the irreconcilable differences in the testimonies of the prosecution witnesses which weakens the case for the People. We cannot but observe that the trial judge did a poor analysis and synthesis of the facts as to deserve admonition.

For instance, the P50.00 bill which was supposed to have been offered to the accused-appellant to purchase the marijuana was not formally offered in evidence[19] although it was marked as exhibit for the prosecution during

the testimony of Sgt. Raguine.[20] Notwithstanding, the trial court referred to it as Exhibit "C"[21] in one part of its decision, then again as Exhibit "D" in another part[22] and even relied on it to support its findings that said evidence consummated the transaction.[23] The decision further states that the confidential informer was wounded on the right arm,[24] when all the testimonies of both the prosecution and defense witnesses consistently state that the informer was hit on the left arm.

Our Code of Judicial Conduct mandates that a "judge should be the embodiment of competence, integrity and independence." [25] He is expected to promote public confidence in the integrity and impartiality of the judiciary such that he is likewise expected to be studious and cautious in making decisions. He should exhibit an industry and application commensurate with the duties imposed upon him. Sadly, the same is wanting among the virtues of the trial judge in the case at bar.

We agree with the appellant and the Solicitor General that the testimonies of the prosecution witnesses are replete with inconsistencies. One point raised is that in the testimony of Sgt. Raguine, it was not established whether the P50.00 bill was really handed to the appellant. Although he related in his direct examination that he gave the bill to the accused before giving the signal to his companions,[26] he did not reiterate this fact during the cross-examination and instead insisted that upon ascertaining that the stuff was marijuana he immediately gave the pre-arranged signal to his men. No corroboration on the handling of the P50.00 bill to the accused was made by the other two prosecution witnesses, Sgts. Benito and Padilla who were likewise present.

Sgt. Raguine further testified that he recorded the serial number of the P50.00 bill in their logbook before the buy-bust operation was to take place.[27] But strangely enough, in his subsequent testimony, he was not able to produce the logbook, allegedly because it could no longer be found in their office.[28] Sgt. Raguine also testified that the P50.00 bill was surrendered by the accused when they were at their headquarters,[29] yet in his later testimony he gave another version and said that the bill was recovered in "(the appellant's) right front pocket of his pants" right after his arrest "at the vicinity of his house" (sic).[30]

Sgt. Raguine was supposed to be the star witness of the prosecution, having acted as the posuer-buyer, but, in a short span of time[31] he seems to have had a poor recall of the incidents relative to the arrest of accused-appellant. Not only that: he hedged, hesitated and involved himself in apparent inconsistencies in his relation of the facts:

Q. And according to you, you found the accused standing near his residence?

A. Yes, sir.

Q. As a matter of fact, he was then in a place where an artesian well was situated, am I correct?

A. I don't know exactly sir.

Q. But the accused was then in a process of washing his face and hands at that time, is that not correct?

A. I did not notice, sir.[32]

x x x

Q. Now according to you, your CI contacted the accused?

A. Yes, sir.

Q. How did your CI contacted (sic) the accused?

A. Because he was standing when we reached the vicinity, he approached him immediately, sir.

Q. How far were you to the CI and the accused when the accused was contacted by your CI?

A. About one (1) meters (sic), sir.

Q. So, you heard the conversation between your CI and Martos?

A. Yes, sir.[33]

x x x

Q. When the CI introduced you to the accused, what kind of dialect did he use?

A. We used Tagalog, sir.

Q. Now, Mr. Witness, what kind of dialect did the CI use in talking to the accused?

A. I can no longer remember what kind of dialect, sir.

Q. You cannot remember whether the CI talked in Ilocano or Tagalog to the accused when he was introducing you to him?[34]

x x x

Q. You said that the accused brought to you a 50 kilogram marijuana, where was this 50 kilogram placed. What was the container?

A. It was wrapped in a plastic cellophane. I am sorry, your Honor, but I could no longer remember the container.

Q. You have a poor memory. You know that you are going to be called as witness in Court and you did not take note of all those things? So you are not sure as to what was the container?

A. I am not sure, your Honor.[35]

These are merely excerpts of Sgt. Raguine's testimony, during the cross, re-direct and re-cross examination. Considering the nature of his testimony, We cannot but question his credibility.

The Solicitor General further observed that "there was no evidence presented to prove that the marijuana, marked as Exhibits "D" to "D-4" (inclusive) in court is the same marijuana allegedly sold by the accused-appellant to the buy-bust team." [36] To substantiate his observation, the Solicitor General called attention to the fact that the endorsement letter was first sent to Camp Dangwa, La Trinidad, Benguet, without the alleged marijuana stuff. Luena Layador, the chemist who conducted the examination of the specimen, testified that she had to go personally to Camp Dangwa to get the specimen, together with other specimens; [37] that she can only identify the said specimen through the names written on the plastic bag; [38] and that she does not know, however, those persons whose names appear on the said plastic bag. [39] Nevertheless, examination of this witness reveals that:

PROSECUTOR ISRAEL:

Q. I show you this plastic bag, Madam Witness, will you please state the names of the members of the unit?

ATTY. MICU:

The witness will be incompetent to testify on that because definitely this witness does not know who were the members of unit that delivered that specimen to Camp Dangwa, your Honor.

COURT:

Just to read the names.

ATTY. MICU:

If just to read, I will not object, your Honor.

WITNESS:

A. Sgt. Padilla and M/Sgt. Raguine.

PROSECUTOR ISRAEL:

Your Honor please, I would like to mark the names of the members of the unit appearing in the plastic bag as Sgt. Padilla, Sgt. Benito and Sgt. Raguine be marked as Exhibits "D-", "D-3" and "D-4" (sic).

COURT:

Mark them.[40]

Notwithstanding, during the prosecution's formal offer of evidence, Exhibit "D" was offered and admitted as follows:

"PROSECUTOR ISRAEL:

After the testimony of the prosecution Chemist, the prosecution is now ready to rest its case, but before doing so, the prosecution would like that the following documentary exhibits be admitted:

x x x

Exhibit "D" is the subject marijuana leaves and Exh. "D-1" is the Chemistry Report No. 132-89; Exhs. "D-2", "D-3" and "D-4" are the names of the persons appearing in the plastic bag are the same persons who apprehended the accused during the incident. (underscoring ours)[41]

Despite the vehement objections of the counsel for the defense, the court admitted all exhibits "for the purpose they are offered in evidence." [42]

In prosecuting a case for violation of Section 4, Article II of Republic Act 6425, the prosecution must be able to establish by clear and convincing evidence that the person charged at a particular time, date and place committed any of such unlawful acts.[43] As it is, We are not convinced that the evidence of the prosecution could stand ground sufficient to convict herein appellant. We cannot even presume that official duty was regularly performed by the arresting officers, for it cannot by itself prevail over the constitutional presumption of innocence accorded an accused person. "If the inculpatory facts and circumstances are capable of two or more explanations one of which is consistent with the innocence of the accused and the other consistent with his guilt, then the evidence does not fulfill the test of moral certainty and is not sufficient to support a conviction." [44] The accused is not even called upon to offer evidence on his behalf. His freedom is forfeited only if the requisite quantum of proof necessary for conviction be in existence.[45]

As manifested by the Solicitor General in his "Manifestation" for accused-appellant's acquittal:

"x x x An assiduous and thorough analysis of the evidence on record disclosed that accused-appellant's conviction has no basis. The prosecution's evidence in support of its theory is not convincing. If there was any evidence presented, it was so slender and shaky, not presented with care and thoroughness which the gravity of the offense demanded and, taken in its entirety, is utterly insufficient to produce conviction beyond reasonable doubt." [46]

All considered, We hold that the guilt of appellant Carlito Martos has not been established beyond reasonable doubt.

WHEREFORE, the appealed decision is REVERSED and SET ASIDE, and the appellant is hereby ACQUITTED on grounds of reasonable doubt.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, and Regalado, JJ., concur.

- [1] Decision, p. 5.
- [2] Rollo, p. 5
- [3] TSN, August 9, 1989, p. 14.
- [4] TSN, *ibid*, p. 39, August 24, 1989, p. 30.
- [5] TSN, October 30, 1989, p. 6
- [6] TSN, *ibid*, p. 9-10.
- [7] Exhibit "C".
- [8] TSN, October 31, 1989, p. 40.
- [9] *Ibid*, p. 51.
- [10] See TSN, October 31, 1989, Testimonies of Dionisio Seguba, Jr. (pp. 2-18) and Armando Javier (pp. 18-31)
- [11] *Ibid*, p. 43.
- [12] *Id*.
- [13] *Ibid*, p. 44.
- [14] *Id*.
- [15] Appellant's Brief, p. 1.
- [16] Solicitor General's Manifestation, Rollo, pp. 33-79.
- [17] *People v. Zapanta y Centeno*, G.R. No. 90853, 195 SCRA 200 (1991); *People v. Kalubiran*, G.R. No. 84079, 196 SCRA 644, (1991).
- [18] *People v. Canada*, L-63728, 144 SCRA 121, (1986); *People v. Taruc*, L-74655, 157 SCRA 178 (1988).
- [19] TSN, October 30, 1989, p. 20-21; see also conflict in minutes of the hearing dated August 24, 1989 and October 30, 1989.
- [20] TSN, August 24, 1989, p. 3.
- [21] Decision, Footnote 2, p. 2.
- [22] *Ibid*, p. 5.
- [23] *Ibid*, p. 4, 5.
- [24] Decision, p. 2.
- [25] Canon 1, Rule 1.01.

[26] TSN, August 9, 1989, p. 14.

[27] Ibid., p. 17.

[28] TSN, August 24, 1989, p. 3.

[29] TSN, August 9, 1989, p. 17.

[30] TSN, August 24, 1989, p. 5.

[31] More of less six months, from the time the crime was supposed to have been committed to the time he gave his testimony in court.

[32] TSN, August 9, 1989, p. 27.

[33] Ibid, p. 28.

[34] Ibid, p. 36.

[35] Ibid, pp. 40-41.

[36] Manifestation, p. 41.

[37] TSN, October 30, 1989, p. 12.

[38] Ibid, p. 13.

[39] Ibid, p. 19.

[40] Ibid, p. 18

[41] Ibid, p. 19-21.

[42] Ibid, p. 22.

[43] People v. Rojo, G.R. No. 82737, 175 SCRA 119 (1989).

[44] People v. Taruc, supra; People v. Parayno, 24 SCRA 3; People v. Palana, 47 Phil 48.

[45] People v. Malilay, 63 SCRA 420.

[46] Page 67, Rollo.

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