

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSEFINO DE LOS SANTOS, ACCUSED-APPELLANT.*G.R. No. 92643. August 09, 1991*

Ponente: SARMIENTO, J.

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Josefino de los Santos appeals the decision of the Regional Trial Court of the National Capital Region, Branch 152 of Pasig, Metro Manila in Criminal Case No. 714-D, convicting him of violation of Section 4, Art. II, of Republic Act No. 6425, as amended by Presidential Decree No. 1675, known as the Dangerous Drugs Act, and sentencing him to life imprisonment, plus a fine of Twenty Thousand (P20,000.00) Pesos without subsidiary imprisonment in case of insolvency, and to pay the costs.[1]

The evidence of the prosecution shows that having been informed of rampant drug trafficking activities among the youth at the corner of Malvar and Bonifacio Streets in Marikina, Metro Manila, Patrolman Melanio Valeroso, PFC Harrison Amanon, and Sgt. Jimmy Navarro, all of the Anti-Narcotics Unit of Marikina, organized a buy-bust operation which was implemented on July 22, 1988 at around 9:30 in the morning. Patrolman Valeroso acted as a poseur-buyer with a marked twenty-peso bill with Serial No. DR-185346 and with his initials on it.[2]

The team proceeded to the named streets and there Patrolman Valeroso saw the suspect, the accused-appellant, wearing a "HANG TEN" flesh-colored T-shirt, as earlier described by their "asset" (informer). He approached Josefino, told him, "iiskor ako," meaning, "I'd like to buy marijuana,"[3] and gave him the marked twenty peso bill. After two minutes, Josefino returned and handed Patrolman Valeroso six (6) sticks of cigarettes wrapped in a transparent plastic bag. Thereupon, Patrolman Valeroso arrested Josefino, who instantly dropped the paper bill and stepped on it. The officer held Josefino by the arm; at the same time, identifying himself as an agent of the law.

Josefino, trying to repulse the arrest, broke loose from Patrolman Valeroso's grip, and ran into the crowded alley or "iskinita." But he was collared by Patrolman Valeroso's companion.[4] He was then taken to the Eastern Police District Headquarters. The six confiscated cigarette sticks were turned over to Camp Crame Crime Laboratory Service for examination. The tests positively identified the subjects under examination as marijuana as shown by Chemistry Report No. D-680-88, Exhibit "A".[5]

Josefino vehemently denied Patrolman Valeroso's accusation that he was selling a prohibited drug, and claimed he was a victim of "mistaken identity."

It was Josefino's first arrest. At the time he was on his third year of employment as a shoemaker in a factory at the back of his house at Malvar Street, Marikina.[6] His job was to apply paste on the heels of shoes and he was paid on a per-piece basis. On July 22, 1988, he reported to work at 7:00 in the morning and left the factory four and a half hours later, at 11:30, to have lunch at home.[7]

While he was cooking lunch, he was startled by a commotion outside his house. When he went out to check what

was going on, a stranger suddenly seized him by the arm and arrested him without a warrant of arrest.[8] He did not have the slightest idea about what was going on had not his employer, Dante Aguirre, intervened. From the arresting officer, Dante learned that Josefino was being arrested for selling marijuana cigarettes.

The accused-appellant challenges the inconsistencies of the testimonies of the prosecution witnesses which render them unbelievable. He also faults the trial court for its failure to appreciate certain material facts. Thus, in his Brief he assigned only one error committed by the trial court, i.e.,

THE TRIAL COURT ERRED IN NOT HOLDING THAT THE EVIDENCE OF THE PROSECUTION HAS FAILED TO MEET THE TEST OF MORAL CERTAINTY OF ACCUSED-APPELLANT'S GUILT AND TO OVERCOME THE CONSTITUTIONAL PRESUMPTION OF INNOCENCE IN HIS FAVOR.

The issue raised in the appellant's Brief hinges on the credibility of witnesses. On this point, we have consistently deferred to the findings of the trial judge, who observes first hand the demeanor and deportment of the witnesses so as to determine the believability of their testimonies.[9] As an appellate court, this Court has none of the judge's advantageous position, relying as it does only on the cold records of the case, and on the judge's discretion.[10]

The lower court established the following facts: That on July 22, 1988 at about 9:30 a.m., Josefino was caught red-handed peddling or "pushing" six sticks of marijuana cigarettes to an undercover NARCOM agent, Patrolman Valeroso, in a buy-bust operation.

The discrepancies in the testimonies of Patrolman Valeroso are minor inconsistencies that do not invalidate Josefino's conviction. As long as the testimonies jibe on material points, the slight clashing statements neither dilute the witnesses' credibility nor the veracity of their testimonies. Patrolman Valeroso, like any other witness on the stand, was confused by the questions raised by the fiscal and the court. In one instance, he declared that he did not actually see the person he arrested selling marijuana.

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COURT: Did you see him selling?

A: Thru our asset.

Q: You answer the question.

A: Yes, sir.

Q: You are sure, you are under oath, that you actually saw the person you arrested selling marijuana? To the youth? You better tell the truth.

A: No, sir.

Q: Why are you saying that on.... around 10:45 in the morning, this person whom you arrested was selling marijuana?

A: It was only reported to us by our asset.

Q: Do you have a warrant of arrest?

A: None, your honor.[11]

This so infuriated the court that it remarked:

COURT: There is no use to try [sic] this case, Fiscal.

FISCAL: If this witness would insist in testifying in this manner, we would be constrain [sic] to utilize him as hostile witness. May we just proceed, your Honor.

COURT: Proceed.[12]

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Be that as it may, Patrolman Valeroso later categorically named and positively identified Josefino as the drug pusher, the very person who sold him the six sticks of marijuana and to whom the police officer-poseur paid the marked P20-bill.

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Q: When this [sic] six sticks was [sic] handed to you, what happen [sic] next?

A: I apprehended this person.[13]

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Q: This person whom you are referring to, were [sic] you said you bought this marijuana cigarette in the amount of P20.00 bill were [sic] you able to know the name of this person after the arrest?

A: Yes, sir.

Q: What is the name of this person?

A: Josefino de los Santos, sir.

Q: If this Josefino de los Santos is inside this Court room, will you be able to point to [sic] him?

A: Yes, sir.

Interpreter: Witness pointing to a person wearing a white T-shirt by the name of.... What is your name please.

Accused: JOSEFINO DE LOS SANTOS, sir.[14]

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We note that Patrolman Valeroso and his two other companions who conducted the buy-bust operation had not known Josefino when they arrested him on July 22, 1988. Such being the case, they had no reason to arrest and charge him without cause, much more, perjure themselves by unjustly accusing Josefino of a grave crime that would put him behind bars for life if found guilty by the court.

Josefino, moreover, has not imputed any motive to Patrol-man Valeroso for giving the allegedly false testimony against him.[15]

At the trial, Dante Aguirre, shoe manufacturer for entrepreneur Corazon de Jesus and employer of Josefino, testified that for years he had known Josefino to be a fine boy.

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Q: What was his record in the factory as worker?

A: What I know in his performance is (sic) shy and industrious.

Q: And when he is being accused of selling or pushing marijuana, what can you say about that accusation?

A: I do not believe on [sic] that.

Q: Why don't you believe on [sic] that?

A: Because I know this boy is good.[16]

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Aguirre's deposition may bear all the earmarks of candor and credibility. It does not, however, preclude us from affirming the finding of the lower court. Aguirre, as the employer of Josefino and his (Josefino's) father for several years, felt naturally and morally bound to help both in any way he could. Moreover, his opinion of Josefino's good moral character is not sufficient to overturn the court's honest and objective appreciation of the evidence.

Likewise, Eufonio Lazaro's testimony may seem convincing at first blush. Barangay Captain of Jesus de la Peña, Marikina, Lazaro corroborated Aguirre's testimony thus:

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Q: This certification stated that Mr. de los Santos has resided since birth at General Malvar Street, Jesus dela Peña, Marikina, Metro Manila, this is correct Capt. Lazaro?

A: Yes, sir.

Q: In issuing this certificate, are you also after the moral character of this person?

A: Based on our records, sir, but if there is no record that's the time we issue a certificate.

Q: Are you telling us that he has no record in your barangay?

A: Yes, sir.

Q: Do you have a complete file of records of residence [sic] of your barangay?

A: We just based it in the records of Katarungang Pambarangay, sir.[17]

In the course of the cross-examination, Captain Lazaro, however, said he could only certify to the accused-appellant's residency of Barangay Jesus de la Peña, but not to his moral character.

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Q: This Josefino de los Santos, do you know what is his occupation?

A: No, sir.

Q: I thought you know him since birth?

A: Yes, sir, as a residence [sic] of our Barangay.[18]

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As aptly noted by the court a quo, the counsel for the accused failed to submit Exhibit "3", a Barangay Certificate, and Exhibit "2", a Police Clearance, despite an order to that effect. It held that the absence of a police clearance and barangay certificate would not affect the outcome of the case as they are not necessary evidentiary proofs that the accused did not commit an offense.[19]

The Court zealously guards against the curtailment of a person's basic constitutional and natural right to liberty. But the Court also upholds the law which specifically allows a warrantless arrest under Rule 113, section 5, paragraph (a) of the Rules of Court if the accused is caught in flagrante delicto, as in the case at bar. The passing

from Josefino's hand of the six sticks of marijuana cigarettes to Patrolman Valerosa's hand in full view of anti-narcotics agents compelled Patrolman Valeroso to arrest Josefino without a warrant. He tried to conceal the marked money by dropping it to ground and stepping on it. Under these circumstances, Josefino can not claim that his right to liberty was violated. Nor can he invoke his constitutional right to the protection of the innocent against any manner of highhandedness from the authorities, however praiseworthy their intentions.[20]

Josefino's flight from the scene may not indicate guilt, but it puts a question mark on his innocence. For there is no trap for an innocent man.

We are convinced Patrolman Valeroso has given the prosecution the evidence needed to accuse Josefino of drug-pushing.

We are further convinced that all the proofs lead to the unavoidable conclusion that the accused is guilty beyond reasonable doubt of the offense charged.

Persons like the accused-appellant 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 drug addiction. The strong arm of the law must never falter against the onslaughts of this terrible affliction.

WHEREFORE, the decision appealed from is hereby AFFIRMED.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Padilla, and Regalado, JJ., concur.

[1] Regional Trial Court, National Capital Judicial Region, Pasig, Metro Manila, Branch 152; Hon. Manuel A. Patron, Presiding Judge.

[2] Original Record, Exhibits "D", "D-2", and "E", 98-99.

[3] TSN, October 19, 1989, 6.

[4] Id., 11.

[5] Original Records, Exhibit "A", 96.

[6] TSN, October 26, 1989, 25.

[7] Id., 26.

[8] Accused-Appellant's Brief, 1.

[9] People v. Isabelo Sanchez, G.R. No. 89407, December 21, 1990; People v. Anciano, G.R. No. 88937, September 13, 1990, 189 SCRA 519; People v. Bernardo, G.R. No. 89542, June 27, 1990, 186 SCRA 876; People v. Andiza, G.R. Nos. 71986-87, August 19, 1988, 164 SCRA 642.

[10] People v. Sanchez, supra, at 5.

[11] TSN, October 19, 1989, 4.

[12] Id., 5.

[13] Id., 7.

[14] Id., 7-8.

[15] *People v. Bernardo*, G.R. No. 89542, June 27, 1990, 186 SCRA 876.

[16] TSN, November 8, 1989, 5.

[17] TSN, November 13, 1989, 7-8.

[18] *Id.*, 8.

[19] Decision, 5.

[20] *People v. Aminnudin*, No. 74869, July 6, 1988, 163 SCRA 402.

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