

## PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RICARDO PINTO Y CAPATULAN, ACCUSED-APPELLANT.

*G.R. No. 93407. January 20, 1993*

Ponente: CRUZ, J.

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### CRUZ, J.:

Convicted of selling marijuana in violation of the Dangerous Drugs Act, the accused-appellant is challenging the decision of the trial court for relying on the prosecution evidence which he says has not proved his guilt beyond reasonable doubt.

As found by the court a quo,[1] Ricardo C. Pinto was arrested as a result of a buy-bust operation conducted by the Valenzuela police after it had received confidential information on February 22, 1990, about a certain pusher named Ric.

The operation team was headed by Pat. Rafael Tamayo as leader and Pat. Wilfredo Quillian, P/Aide Crisanto Soriaga, and Pat. Federico Patag as members. Pat. Tamayo was given a marked P20.00 bill for use in the sham purchase.

At about 7 o'clock that evening, the team proceeded to the address of the accused-appellant as indicated by the informant. While the rest of the other team members positioned themselves unobtrusively, Pat. Tamayo knocked on the door of the suspect's house. When a man opened the door, Pat. Tamayo asked for Ric. The man said he was Ric. Pat. Tamayo then handed him the marked P20.00 bill and asked for the equivalent in marijuana. Ric got the money, went upstairs and upon returning gave Pat. Tamayo two tea bags of marijuana.

As Ric did so, Pat. Tamayo signaled his team-mates, who closed in on their quarry. They identified themselves as police officers and arrested Ric. They retrieved the P20.00 bill and discovered 3 more tea bags of marijuana in his pocket. These they placed in a plastic bag, together with the other 2 tea bags. They then took Ric to the police headquarters for questioning.

At the station, Pat. Tamayo picked two of the tea bags in the plastic container and marked them as the articles sold to him by Ric.[2] The marked money was also identified with his initials.[3]

Constancia Salazar, forensic chemist of the NBI, testified that the articles sent to her by the Valenzuela police for examination tested positive for marijuana.[4]

In his defense, the accused-appellant testified that in the evening in question, he was in his yard training his fighting cocks when a man approached and asked him if he was Ric. He said he was and the man then inquired if he had any marijuana for sale. Ric said he was surprised at the question and answered that he was not selling marijuana. The man insisted on buying marijuana from him, and this so angered him that he turned his back on him. Suddenly, the man grabbed his hands and clamped handcuffs on them. The man's companions then joined him and dragged him into his house, which they searched without a warrant. Not finding any marijuana there, they took him to police headquarters, where they "planted" the tea bags on him.[5]

In rejecting this testimony, the trial court noted that Pinto never alleged that defense before the inquest fiscal: the decision pronounced it a mere afterthought. Her Honor also observed that Pinto offered no witnesses to corroborate his story and that he himself admitted he did not know Pat. Tamayo before the incident in question.

The accused-appellant now finds fault with the findings of the trial court, pointing to the inconsistency in Pat. Tamayo's testimony and his sworn statement on the manner he approached Ric. This is too trivial to make a difference. Whether Pat. Tamayo asked the accused-appellant if he was Ric or whether Ric was identified for him by the informer does not detract from the over-all credibility of this prosecution witness.

The accused-appellant also contends that a marijuana pusher would not be so careless as to sell his prohibited wares to a stranger. Our experience in this regard does not support him. As this Court has noted many times, drug pushers have become increasingly daring in the operation of their illicit trade and have not hesitated to act openly, almost casually and even in scornful violation of the law, in selling prohibited drugs to any and all buyers.

Finally, the fact that Pat. Tamayo merely picked two of the tea bags from the plastic container and identified them to be the articles sold to him by Pinto does not impair the probative value of these exhibits. While it is true that there were 5 tea bags in the plastic container and Pat. Tamayo could not have distinguished one from the other, the very similarity of these 5 tea bags made it unnecessary to precisely indicate the tea bags sold to Pat. Tamayo. After all, all the tea bags were illegally possessed and came under the prohibition of the Dangerous Drugs Act.

The Court is satisfied that the accused-appellant was correctly convicted on the basis of the evidence of the prosecution that established his guilt beyond reasonable doubt. He must therefore suffer the penalties imposed upon him for the execrable offense he has committed.

ACCORDINGLY, the appealed decision sentencing the accused-appellant to life imprisonment and a fine of P20,000.00 is AFFIRMED, with costs against him. It is so ordered.

Padilla, Griño-Aquino, and Bellosillo, JJ., concur.

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[1] Branch 172, Regional Trial Court of Valenzuela, Metro Manila, presided by Judge Teresita Dizon-Capulong.

[2] TSN, Hearing of April 11, 1990, pp. 3-4.

[3] Ibid., p. 6; Id., hearing of April 4, 1990, pp. 8-9.

[4] id., hearing of March 14, 1990, pp. 3-4.

[5] id., hearing of May 2, 1990, pp. 2-5.

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