

## PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BENJAMIN MADRID Y PANGAN, ACCUSED-APPELLANT,

*G.R. No. 94298. June 22, 1992*

Ponente: REGALADO, J.

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### REGALADO, J.:

Accused-appellant seeks the reversal of the judgment in Criminal Case No. 10211-V-90 of the Regional Trial Court, Branch 172 in Valenzuela, Metro Manila,[1] finding him guilty beyond reasonable doubt of violating Section 4, Article II of Republic Act No. 6425, otherwise known as the Dangerous Drugs Act of 1972, as amended, and sentencing 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 the costs.[2]

In an information dated March 30, 1990,[3] appellant was charged with having willfully, unlawfully and feloniously sold, delivered and given away four sticks of marijuana cigarettes in violation of the above-cited law. Appellant having pleaded not guilty to the charge at his arraignment, trial on the merits proceeded.

The facts hereunder narrated, as found by the court below and established by evidence adduced during the trial, have neither been seriously controverted nor undermined by appellant's contrariant account, hence we grant our imprimatur thereto.

On March 28, 1990, at around 3:00 o'clock in the afternoon, Pat. Nilo de los Reyes, together with Pat. Federico Patag, Pat. Wilfredo Quillan and Police Aide Crisanto Zuriaga, were on patrol duty along M.H. del Pilar Street in Palasan, Valenzuela, Metro Manila, when one of their confidential informants arrived and informed them about a notorious drug pusher, known as Junior Madrid, at Deato Compound in the same place. After promptly setting up the buy-bust operation, these NARCOM agents proceeded to the place with the confidential informant, and arrived there at about 3:45 P.M. Pat. De los Reyes was designated as the poseur-buyer. Pat. Patag gave him one P10.00 bill on which he wrote down his initials to mark the same. The confidential informant pointed to the suspect, who was later identified in open court as herein appellant Benjamin Madrid, as he stood alone in front of his residence. Pat. De los Reyes then approached appellant alone, the confidential informant having left, while the rest of the group positioned themselves about ten to twenty meters away from where the transaction took place.[4]

Pat. De los Reyes conversed with appellant and thereafter told him that he wanted to buy marijuana worth P10.00. Appellant replied, "Sandali lang, may kukunin lang ako," and Pat. De los Reyes gave him the P10.00 bill. Appellant went inside his house and, after a few minutes, he returned bringing with him four handrolled sticks of dried marijuana leaves. When Pat. De los Reyes became certain that what had been handed to him was marijuana, he signalled to his companions by nodding his head. His companions there-after rushed forward and arrested appellant. The NARCOM agents were able to recover from him the P10.00 bill which Pat. De los Reyes had previously given him.[5]

Pat. De los Reyes executed an affidavit on March 29, 1990 wherein he set forth the procedure they adopted and the details on how they were able to arrest appellant. The same was introduced and admitted in evidence as

Exhibit "F",[6] and fully confirms the testimonies of the prosecution witnesses.

The four handrolled sticks were submitted to the National Bureau of Investigation for examination. The forensic chemist conducted the chromatographic examination and the specimens were found positive for marijuana. He formalized the results of his examination in his Dangerous Drugs Report No. DDM-90-490 which was offered and admitted in evidence as Exhibit "C".[7]

On his part, appellant testified that he was formerly employed as a steelman but on March 28, 1990 and at about the time referred to by the prosecution witnesses, he was jobless and was repairing his house located at Deato Compound in Palasan, Valenzuela, Metro Manila. Five men approached him and asked him about a person named Bingbing who was selling marijuana at their place. He answered that he does not personally know such person. He further testified that he was able to recognize one of the five men who approached him but he failed to give that person's name. The other four persons were recognized by him only during the trial and these were Pats. Patag, Quillan and De los Reyes, and the informer Sonny.[8]

Appellant further testified that on that occasion referred to, these policemen asked him to buy marijuana. He retorted by telling them not to disturb him because he had something else to do and suggested that they ask somebody else to make the purchase for them. They got angry and after introducing themselves as policemen, they brought him to Polo police station in handcuffs and incarcerated him for about half an hour.[9]

When they returned, Pat. Quillan allegedly showed him some marijuana. He did not know how many there were but he refused to admit that he was in possession of the same. He also denied the allegation of Pat. De los Reyes that he was selling marijuana. He further testified that the marked money was not recovered from him.[10]

His testimony was sought to be corroborated by a certain Clavela Santos, who testified for the defense.[11] This witness declared that appellant and his wife were her neighbors since 1979. On March 28, 1990 at about 3:00 P.M., she was by the stairs of her house, and was about to bring "merienda" to the wife of appellant, who was then her laundrywoman and who, on that particular day, was washing clothes for her and fetching water from the field. She saw that some men, who looked like policemen, went to the house of appellant who was then fixing the same. She observed that he was being asked about a certain Bingbing and that he was suddenly handcuffed. When appellant asked why he was being handcuffed, the policemen told him that he was a drug pusher.

The witness further averred that appellant showed his wallet to the policemen which contained P15.00, but she does not know whether the policemen were then in the process of recovering marked money.[12] After he was handcuffed, appellant voluntarily went with the policemen because, according to the witness, he knew that he did not do anything wrong. How she could make this assertion on behalf and supposedly based on the personal knowledge of appellant, she did not explain. Furthermore, she claimed that the policemen boxed appellant on his head and back,[13] which fact, significantly, appellant himself never asserted nor testified to.

After trial, the court a quo rendered the assailed judgment. Obviously aggrieved with the decision, appellant interposed this appeal and contends that the trial court erred (1) in giving weight and credence to the improbable testimonies of prosecution witnesses Patrolmen Nilo de los Reyes and Wilfredo Quillan, and (2) in finding appellant guilty beyond reasonable doubt of the crime charged despite the insufficiency of the evidence.[14]

The main thrust of this appeal hinges on the matter of credibility of witnesses and we find no compelling reason to deviate from the findings and ruling of the trial court.

We have scrupulously reviewed and assessed the evidence and we must reiterate once again the well-settled rule in our jurisdiction that findings of the trial court on credibility of witnesses have great weight and are entitled to respect because the trial judge had first-hand opportunity to examine and observe the conduct and demeanor of

the witnesses when they gave their testimonies.[15]

This rule specially applies when the prosecution witnesses are law enforcers who are presumed to have regularly performed their duties.[16] Even without such presumption, we find nothing in the records or the proof of the facts drawn by the lower court which would warrant a departure from the foregoing normative rules in the appreciation of evidence.

As against appellant's testimony, we are therefore inclined to give more credence to those of the prosecution witnesses. Appellant merely denied the accusation against him. He just augmented his denial with the semblance of an alibi that he was then busy repairing his house when a group of five men approached him, asked him about a certain Bingbing and, because he was uncooperative, forthwith apprehended him.

This is hardly plausible, but even indulging appellant in what he would pass off as an exculpatory alibi, we have consistently held in a considerable number of cases that, if so, alibi is inherently a weak defense.[17] To be given credence, it must be shown by clear and convincing evidence that it was physically impossible for him to be at the scene of the crime at the time of its commission.[18] Appellant, in the case at bar, failed to substantiate his defense and therefore, the same must be rejected in view of the positive and credible identification of appellant by the prosecution witnesses as the perpetrator of the crime.[19]

Moreover, appellant's testimony, although ostensibly corroborated, is flawed by patent inconsistencies as shown by the underscored portions in the excerpts thereof which are hereinunder reproduced. Initially, he declared:

"ATTY. PEREZ:

Q While you said you were repairing your house on March 28, 1990 at 3:00 was there any extra-ordinary incident that happened?

A Yes, sir.

Q What was it?

A 5 men approached me, I know one of them, they were asking for the person who was selling marijuana in our place. I told them, I knew him by his face only, not by his name, sir." [20]

On cross-examination, he testified as follows:

**"FISCAL:**

x x x

Q How did you come to know of a certain Bingbing allegedly selling marijuana in your place?

A I have been hearing his name for three months.

Q And do you know where this Bingbing is from?

A I have heard that he is from Palasan, ma'am." [21]

Appellant was also asked whether or not he recognized the five men who allegedly approached him, and even his answers to such a simple question are evasive and self-contradictory, thus:

"ATTY. PEREZ:

Q Do you know who asked you who is Bingbing?

A One of these five men who approached me, sir.

Q Until now you do not know this man who approached you and asked you of Bingbing?

A No, I do not know him, sir.

Q Of the five men according to you who approached you and one of them asked you the whereabouts of Bingbing do you know by now their names?

A Now I know the four while the other one I knew him even before, sir.

Q Who were these four whom you know as you said?

A Pat. Patag, Pat. Quillan, Pat. de los Reyes, the 4th one is Sonny, an informer, ma'am."[22]

However, on cross-examination, he changed his identification of the four policemen:

"Q I am referring to the police officers, you never knew any of them?

A None.

Q When for the first time did you come to know that these 4 men were police officers?

A When they brought me to police headquarters, ma'am."[23]

The foregoing vacillations of appellant, being reflective of his tendency to be prevaricatory, in his representations, cannot but engender doubts on the credibility of his version of the case against him. Likewise, the asseverations of Clavela Santos, intended to corroborate those of appellant, appear to have been cut from the same testimonial scroll. As appropriately noted by the trial court:

"The testimony of Clavela Santos smacks of some untruthfulness. The Court would not believe her testimony that she brought lunch and merienda to the wife of the accused, her lavandera, because under ordinary run of events, that is not being done especially when their respective houses are fronting each other and separated only by an alley and why should she deliver merienda to her when she said the accused's wife was at the barrio 'na sa bukid' to fetch water? Likewise her testimony that the accused was boxed on the head and at the back by the policemen as the accused went voluntarily with them is not likewise credible because there was no reason for those acts. The accused went voluntarily with them and did not put up a fight. x x x."[24]

Again, the failure of appellant to prove any motive on the part of these police officers, who did not even know him, to testify falsely against or to impute to him such an act as drug pushing calls for the rejection of his assertions. This is but in accord with the rule that statements of prosecution witnesses are entitled to full faith and credit in the absence of motive to falsely identify the appellant.[25] Moreover, appellant also expressly admitted that he never had any misunderstanding with the informer, Sonny, nor does he know of any reason why said Sonny would cause his arrest.[26]

Another argument raised by appellant is that it is very hard to believe that the police operatives could immediately conduct a buy-bust operation given a very short duration of time from the moment they prepared the buy-bust money at 3:00 o'clock in the afternoon up to his actual arrest at 3:45 P.M. Appellant claims that these police operatives still had to travel a distance of some fifty to seventy meters to reach the place where he was allegedly selling marijuana.[27]

On this point, we agree with the Solicitor General that the improbabilities referred to by appellant are mere trivial matters which do not affect the credibility of prosecution witnesses.[28] What matters in any buy-bust operation is the fact that the suspected drug dealer is caught in flagrante delicto selling his prohibited wares. Besides, we cannot see why the process of merely putting initials on the P10.00 bill and forthwith negotiating a distance of only fifty or seventy meters to where appellant was could not be done in forty-five minutes. In fact, appellant says

that he was really arrested at 4:00 P.M., or after a time interval of one hour.[29]

Moreover, in *People vs. Mariano*,[30] we held that in a prosecution for illegal sale of marijuana, what is material is the proof that the selling transaction transpired, coupled with the presentation in court of the corpus delicti as evidence. Applying that doctrine to the case at bar, the records amply show that the prosecution was able to prove the sale of marijuana by appellant through testimonial and documentary evidence submitted in court and the presentation of the duly identified marijuana cigarettes sold by appellant to the poseur-buyer.

Appellant finally argues that it is unusual and unbelievable for him to openly conduct his business of selling drugs at his very own residence and to someone who is a total stranger to him. We disagree.

In *People vs. Tandoy*,[31] we had the occasion to clarify that drug pushing when done on a small scale, as in this case, belongs to that class of crimes that may be committed at any time and in any place. After the offer to buy is accepted and the exchange is made, the illegal transaction is completed in a few minutes.

Furthermore; the fact that appellant conducts his illegal trade at his own residence does not militate against the case for the prosecution because, contrary to appellant's theory that the same may discourage him, it may even give him a sense of security and embolden him as he always has a place to seek refuge in or people to seek assistance from in case something goes wrong with his illegal trade and the authorities come after him.

Neither is it contrary to human experience for a drug pusher to sell to a total stranger. In fact, this is not the first time this defense is sought to be foisted on us. As we held in *People vs. Cina*: [32]

"It matters not that the buyer and the drug pusher are unfamiliar with each other. The crucial matter is their agreement and the acts constituting the sale and delivery of the prohibited substance. In the present case, although there were serious risks in selling marijuana to a virtual stranger, apparently the lure of profit overcame such consideration."

There is no cogent reason in this case for not adhering to the aforecited realistic dictum. Appellant was caught red-handed violating the law and he cannot thereafter be permitted to exonerate himself from liability on such a puerile excuse, the usual recourse to which and the inutility whereof is much a matter of judicial knowledge and experience.

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

**SO ORDERED.**

Narvasa, C.J., (Chairman), Paras, and Padilla, JJ., concur.  
Nocon, J., on leave.

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[1] Per Judge Teresita Dizon-Capulong, Presiding Judge.

[2] Original Record, 56.

[3] *Ibid.*, 1.

[4] TSN, April 30, 1990, 2-3; TSN, May 23, 1990, 2.

[5] *Ibid.*, *id.*, 3; *ibid.*, June 1, 1990, 2.

[6] Folder of Exhibits, 6-7.

[7] TSN, May 16, 1990, 2-4; Folder of Exhibits, 3.

- [8] Ibid., June 13, 1990, 2-3; TSN, June 18, 1990, 2.
- [9] Ibid., id., 3.
- [10] Ibid., id., 3-4.
- [11] Ibid., June 27, 1990, 2-8.
- [12] Ibid., id., 7.
- [13] Ibid., id., 4.
- [14] Brief for Accused-Appellant, 1.
- [15] People vs. Espejo, et al., 36 SCRA 400 (1970); People vs. Aboga, et al., 147 SCRA 404 (1987); People vs. Marcos, 185 SCRA 154 (1990).
- [16] Sec. 3 (m), Rule 131, Rules of Court; People vs. Madarang, 147 SCRA 123 (1987); People vs. Agapito, 154 SCRA 694 (1987).
- [17] People vs. Perante, Jr., 143 SCRA 56 (1986).
- [18] People vs. Pasco, et al., 181 SCRA 233 (1990).
- [19] People vs. Demecillo, et al., 186 SCRA 161 (1990).
- [20] TSN, June 13, 1990, 2.
- [21] Ibid., June 18, 1990, 2.
- [22] Ibid., June 13, 1990, 3.
- [23] Ibid., June 18, 1990, 3.
- [24] Decision, 6; Rollo, 19.
- [25] See People vs. Rabang, 187 SCRA 682 (1990); People vs. Vocente, et al., 188 SCRA 100 (1990).
- [26] TSN, June 18, 1990, 4.
- [27] Brief for Accused-Appellant, 8-9.
- [28] Brief for the Appellee, 5-6.
- [29] TSN, June 18, 1990, 1.

**[30] 191 SCRA 136 (1990).**

**[31] 192 SCRA 28 (1990).**

**[32] 190 SCRA 199 (1990).**

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