

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RENATO ARCEGA, ACCUSED-APPELLANT.*G.R. No. 96319. March 31, 1992*

Ponente: MELENCIO-HERRERA, J.

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For peddling twenty (20) hand-rolled sticks of marijuana and having in his possession another one hundred forty (140) sticks more, accused Renato Arcega y Viñas, alias "Ata Boy," was sentenced to a life in prison and to pay a fine of P20,000.00. He is now before us, asserting his innocence and seeking a reversal.

The facts, as presented by the prosecution, follow: On 4 March 1990, at around 4:00 o'clock in the morning, a team of six members of the Anti-Narcotics Unit of the Malabon Police Station prepared for a "buy-bust" operation to entrap accused-appellant Renato Arcega, a suspected drug pusher (TSN, 21 August 1990, 4; 28 August 1990, 12). Cpl. Eddie Galang was the team leader, with Cpl. Eddie Regalado and Pat. Benjamin Sales as two (2) of its members. From the Malabon Police Headquarters, the team, together with a confidential informant, who had arranged the transaction the day before (TSN, 28 August 1990, 6) proceeded to Dulong Pilapil, Velasquez, Bgy. Tugatog, Malabon to survey the area, ascertain the exact place where the accused-appellant could be found, and map out where the members of the raiding team would position themselves. After some twenty (20) to thirty (30) minutes, they retreated to the Tugatog Police Detachment to finalize the details of their operation (TSN, 21 August 1990, 4).

Pat. Sales was designated the poseur-buyer and was, thus, handed the "buy-bust" money, consisting of one (1) P20.00 bill, two (2) P10.00 bills, and two (2) P5.00 bills (Exhibits G, H, I, J, K), the serial numbers of which were taken down. The others would act as arresting officers and back-up security (*ibid.*).

At around 6:00 o'clock that same morning, the raiding team returned to Dulong Pilapil for the actual "buy-bust" operation. Pat. Sales, accompanied by the confidential informant, went to the house of the accused-appellant and knocked on the latter's door (*ibid.*, 5), while the others took their respective positions, which were, more or less, fifteen (15) to thirty (30) meters away from where the operation was to take place (TSN, 28 August 1990, 8; 20-21).

A few minutes passed and the door was opened by the accused-appellant who was introduced by the confidential informant to Pat. Sales as "Ata Boy." After a brief conversation, Pat. Sales was asked how many sticks he wanted to buy. His reply was: "twenty (20) sticks only (*ibid.*, 13)." The accused-appellant went inside his house and returned shortly after with twenty (20) hand-rolled sticks of marijuana in hand, which he gave to Pat. Sales. After ascertaining that it was indeed marijuana, Pat. Sales, in turn, paid the accused-appellant P50.00 therefor. Pat. Sales then gave the pre-arranged signal of lighting a cigarette (*ibid.*, 8; 13).

Upon seeing that signal, the apprehending team closed-in, introduced themselves as police authorities, and arrested the accused-appellant. Cpl. Regalado frisked the accused-appellant and recovered from him the marked money. Meanwhile, Pat. Sales turned-over to Cpl. Galang, their team leader, the twenty (20) sticks he bought

from the accused-appellant (TSN, 21 August 1990, 6). Then, the accused-appellant, after being assured that the gravity of his offense could be reduced if he cooperated (TSN, 28 August 1990, 10), voluntarily surrendered one hundred forty (140) more hand-rolled sticks of marijuana packed in a Pritos Ring plastic bag (TSN, 21 August 1990, 5-7). The accused-appellant was thereafter taken to the Police Headquarters where he signed each of the one hundred forty (140) sticks of marijuana cigarettes while Pat. Sales and Cpl. Galang initialled each of the twenty (20) sticks (TSN, 28 August 1990, 2-3, 17).

The twenty (20) sticks of suspected marijuana cigarettes (Exhibits E, E-1 to E-19) as well as the other one hundred forty (140) sticks (Exhibits F, F-1 to F-140) were then transmitted to the Forensic Chemistry Section of the National Bureau of Investigation for tests. "Microscopic, chemical and chromatographic examinations made on the above-mentioned specimen gave positive results for marijuana (Exh. C)."

For his part, the accused-appellant denied having sold marijuana. He presented a different version of the incident. He said that on 24 March 1990, at exactly 4:00 a.m., he was awakened when their front door was being forcibly opened by a group of men whom he thought at first were thieves. They were asking for the house of Eddie, his brother. However, after pointing to the house of Eddie which was on the other side of street, he was ordered to accompany them. They fetched Eddie who was told that a certain Jack Johnson was inviting him. All of them then proceeded to the house of Jack Johnson, who invited them to eat porridge in an eatery in front of Arellano College. From there, the accused-appellant and his brother, Eddie, were taken to the Malabon Police Station where the former was detained while the latter was allowed to go home. The accused-appellant was likewise "asked to sign the marijuana which they (policemen) brought out (TSN, 2 October 1990, 1-7)."

No other witness stood for the accused-appellant.

After evaluating the contradictory versions, the Trial Court[1] rejected the accused-appellant's affirmations and rendered a judgment of conviction, with the following disposition:

"WHEREFORE, in view of the foregoing, judgment is rendered finding the accused Renato Arcega y Viñas guilty beyond reasonable doubt of Violation of Section 4, Article II, Republic Act No. 6425 and sentenced to suffer life imprisonment to pay a fine of P20,000.00 and the costs of this suit.

"x x x x x

"SO ORDERED."

Feeling aggrieved by the Decision of the Trial Court, the accused-appellant, now, before us, reaffirms his innocence and faults the Trial Court for convicting him despite material inconsistencies in the testimonies of the prosecution witnesses, and in finding him guilty beyond reasonable doubt notwithstanding the insufficiency of evidence adduced by the prosecution (Rollo, 32; Appellant's Brief, 1).

To support the foregoing position, the accused-appellant points out the following circumstances:

1. Cpl. Regalado testified that they received information regarding his (accused-appellant's) address, more or less, two (2) months prior to the actual "buy-bust" operation (TSN, 28 August 1990, 5). Yet, Cpl. Regalado later said that they were not able to secure a search warrant since their "confidential informant was not able to get the exact address of the area" (ibid.).
2. Cpl. Regalado stated that they arrived at 4:00 o'clock (in the morning) and left after conducting a twenty (20) to thirty (30) minute surveillance (ibid., 6). In another instance, he declared that after returning to the house of the accused-appellant at 4:00 o'clock in the morning and finding the same still closed, he, together with the confidential informant, knocked on the door, which was opened by the accused-appellant himself (ibid., 7).

3. Cpl. Regalado testified that the accused-appellant, after being arrested for the sale of twenty (20) sticks of hand-rolled marijuana, voluntarily surrendered one hundred forty (140) more sticks (*ibid.*, 9). Pat. Sales, however, said that after the arrest, the accused-appellant was brought to the police headquarters (*ibid.*, 16).

4. The confidential informant is admittedly a user of marijuana (*ibid.*, 7) and thus, his information is highly questionable, if not incredible.

The Court is not persuaded.

The alleged material inconsistencies are more apparent than real. Although the Anti-Narcotics Unit of the Malabon Police received information regarding the drug-pushing activities of the accused-appellant and his address two (2) months before the actual "buy-bust" operation, the exact address was never given. This is very clear from the cross-examination of Cpl. Regalado, to wit:

"ATTY. ZAPANTA

"Q: In fact, you have a complete knowledge as to the resident (sic) or to the house of this Ataboy?

"WITNESS:

"A. We do not know the complete address of the accused.

x x x x x x x x

"A. We were not able to request for search warrant (since) our CI (confidential informant) was not able to get the exact address of that area because there were not (sic) numbers." (*ibid.*, 5) (underscoring supplied).

The testimony of Cpl. Regalado regarding the time of the incident is likewise unrefuted and does not conflict in any way with the facts, as presented by the prosecution as a whole. The place was undisputably surveyed at 4:00 o'clock in the morning, while the actual "buy-bust" operation commenced later, at around 6:00 o'clock that same morning. Thus:

"ATTY. ZAPANTA

"Q: You returned at the same house at 4:00 o'clock and the house was still closed?

"WITNESS

"A: Yes, Sir.

"Q: And your poseur-buyer, together with the CI (confidential informant) knocked at the door and the door was opened by the accused?

"A: Yes, sir, he was "bagong gising."

"COURT

"Q: Around what time was that?

"A: It is already 6:10 in the morning, Your Honor (*ibid.*, 7; underscoring, supplied).

By and large, the "material inconsistencies" asserted by the accused-appellant which allegedly create grave doubts are, on the contrary, too minor, trivial and inconsequential to affect the credibility of the prosecution witnesses, the inconsistencies having been fully and sufficiently explained during trial by the witnesses themselves, and their explanations having been accepted by the Trial Court. Besides, it has been held, time and again, that minor inconsistencies and contradictions in the declarations of witnesses do not destroy the witnesses' credibility, but

even enhance their truthfulness as they erase any suspicion of a rehearsed testimony (*People v. Payumo*, G.R. No. 81761, July 2, 1990, 167 SCRA 64, and a host of cases mentioned therein).

The accused-appellant likewise makes capital of the fact that Pat. Sales made no mention of the surrender of an additional one hundred forty(140) hand-rolled sticks of marijuana and concludes that the said one hundred forty sticks are planted evidence to ensure his conviction. This simply does not hold water. There is just no reason for the law enforcers to plant one hundred forty (140) sticks of marijuana to ensure the accused-appellant's conviction considering that the accused-appellant was caught in flagrante delicto as a result of the "buy-bust" operation, and this fact alone is sufficient to convict the accused-appellant and sentence him to a life in prison. Besides, the testimonial evidence discloses that Pat. Sales had already left the situs of the "buy-bust" operation when accused-appellant surrendered the 140 marijuana sticks to Pat. Regalado (T.S.N., 28 August 1990, 18).

The argument that the confidential informant is a marijuana user, and as such, his information is highly questionable, if not incredible, is likewise devoid of merit. The conviction of the accused-appellant does not depend on the information supplied by the confidential informant, but on the fact that the accused-appellant sold and delivered to the poseur-buyer twenty (20) sticks of marijuana, and accepted payment therefor.

In the main, the issues in the instant case devolve around the credibility of the witnesses. In this regard, it is well-settled, to the point of triteness, that Appellate Courts will generally not disturb the factual findings of the Trial Court, as the latter is in a better position to decide the same, having heard witnesses themselves and having observed their deportment and manner of testifying during trial unless it has plainly overlooked certain facts of substance and value which, if considered, might affect the results of the case (*People v. Catan*, G.R. No. 92928, 21 January 1992, citing *People v. Sabado*, L-76952, 22 December 1988, 168 SCRA 681).

The fact that the accused-appellant denied that a "buy-bust" operation ever took place does not weaken the testimonies of the prosecution witnesses. As between the positive declarations of said witnesses and the negative statements of the accused-appellant, the former deserve more credence and weight (*People v. Catan*, *supra.*, citing *People v. Adap*, L-66237, 12 September 1990, 189 SCRA 413).

Indeed, the testimonies of the two (2) prosecution witnesses should be accorded belief and credence since they are both law enforcers who are presumed to have regularly performed their duties in the absence of proof to the contrary (Sec. 5[m], Rule 131, Revised Rules of Court; *People v. Yap and Mendoza*, G.R. Nos. 87088-89, 9 May 1990, 185 SCRA 222). There are simply no compelling reasons to over-turn the presumption.

However, we do not accede to the submission of the Solicitor General that the penalty imposed is excessive. Section 4, Article II, of Rep. Act No. 6425 that he cites has already been amended by Pres. Decree No. 1675, prescribing the higher penalty that was correctly imposed by the Trial Court. Moreover, the Court, within its sphere, must do its part to assist in the all-out effort to eliminate the drug menace and to curb the enormous increase of drug users, specially among our youth. Where guilt beyond reasonable doubt has been proven, there is no alternative but to apply the penalty within the range provided by law.

In fine, we see no substantial reason to depart from the conclusions reached by the Trial Court. The quantum and quality of the evidence marshalled by the People justify conviction.

WHEREFORE, the judgment appealed from is AFFIRMED in toto. Costs against accused-appellant Renato Arcega y Viñas.

SO ORDERED.

Paras, Padilla, Regalado, and Nocon, JJ., concur.

[1] Judgment was rendered by the RTC, National Capital Judicial Region, Branch 170, Malabon, Hon. Marina L. Buzon, presiding.

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