

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DANILO CRUDA, ACCUSED-APPELLANT.

G.R. No. 98251. August 04, 1992

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is an appeal from the decision of the Regional Trial Court, Branch II, Sindangan, Zamboanga del Norte dated March 3, 1991 in Criminal Case No. S-1622 convicting appellant Danilo Cruda of violation of Section 4, Article II of Republic Act No. 6425, as amended. The dispositive portion of the assailed decision reads:

"WHEREFORE, premises studiedly considered, the Court finds the accused guilty beyond reasonable doubt of violation of Section 4, Article 11 of Republic Act 6425, as amended by PD 44, he is hereby sentenced to Reclusion Perpetua, to pay a fine of P20,000.00, without subsidiary imprisonment in case of insolvency, and no costs. Credited in his favor is the full period during which he had undergone preventive imprisonment in the Provincial Rehabilitation Center at Sicayab, Dipolog City during the pendency of this case." (Orig. Records, p. 167)

The accused-appellant was charged with the above-mentioned crime in an information stated as follows:

"That, in the afternoon, on or about the 9th day of September, 1987, in the municipality of Sindangan, Zamboanga del Norte, within the jurisdiction of this Honorable Court, the said accused did then and there wilfully, unlawfully and feloniously sell four (4) cigarette sticks of Marijuana, with the full knowledge that the same is prohibited and a Violation of Republic Act No. 6425 otherwise known as the Dangerous Drugs Act of 1972." (Orig. Records, p. 14)

The testimonies of the prosecution witnesses as summarized by the trial court established the following attendant facts:

"Intelligence Section of Integrated National Police Station at Sindangan was organized. Team leader of which was P/Cpl. Erlindo Bayawa. Members were Pfc. Bienvenido Aguilar, P/Cpl. Rodrigo Santillana and Pat. Danilo Alforque to apprehend violators of law and those engaged in any illegal activities. On September 9, 1987 they were informed by their two assets Edgar Geronico and Allan Soriano that Danilo Cruda was selling marijuana at Dapaon, Sindangan, Zamboanga del Norte. Upon receiving aforesaid information they conceived a 'buy-bust operation', Pfc. Bienvenido Aguilar and P/Cpl. Rodrigo Santillana left for Dapaon, Sindangan at about 2:20 in the afternoon of the same day together with two assets Edgar Geronico and Allan Soriano to the house of the accused Danilo Cruda to pose as a marijuana buyer, and had with them two (2) five-peso bills marked with the initial of Rodrigo Santillana; that meanwhile Pfc. Bienvenido Aguilar and P/Cpl. Rodrigo Santillana positioned themselves the former 20 meters and the latter 10 meters from the place of Danilo Cruda; that they saw Danilo Cruda went (sic) down the house; that after Edgar Geronico gave the money to Danilo Cruda he gave the four sticks of marijuana; after the consummated sale of marijuana they effected immediate arrest of Danilo Cruda; that Danilo Cruda gave two (2) five-peso marked bills to P/Cpl. Rodrigo Santillana; that thereafter Danilo Cruda was brought to the police headquarters where he was investigated; that the confiscated marijuana were submitted to PC/INP Crime Laboratory at Recom 9, Zamboanga City and were

examined and authenticated by Forensic Chemist Athena Eliza Anderson and found the specimens (sic) positive for marijuana." (Rollo, pp. 11-12)

The version of the defense was likewise summarized by the trial court as follows:

"xxx [T]hat in the afternoon of September 9, 1987 he was at his house at Dapaon, Sindangan, Zamboanga del Norte; that P/Cpl. Rodrigo Santillana and Pfc. Bienvenido Aguilar arrived and he was called by them while he was at the door; that he went down and approached them; that they immediately handcuff (sic) him; that they told him he is selling marijuana; that he denied selling marijuana but they do (sic) not believe (sic) him; that they brought him to the police station where he was investigated in the presence of P/Sgt. Caboverde and Pfc. Aguilar; that he did not remember Edgar Geronico and Allan Soriano came (sic) to his house at Dapaon, Sindangan, Zamboanga del Norte sometimes (sic) on September 9, 1987." (Rollo, pp. 12-13)

Upon arraignment, the accused-appellant pleaded not guilty. Trial on the merits proceeded and the accused was convicted of the crime charged.

The issues raised by the accused-appellant focus mainly on the credibility of the prosecution witnesses.

The accused-appellant contends that two circumstances render the testimonies of the prosecution witnesses improbable.

Danilo Cruda claims that there was no preparation for the buy-bust operation because the two (2) five-peso bills given to Geronico were not entered in the police logbook or blotter.

The contention is without merit because there is no fixed procedure for conducting buy-bust operations. The records show no irregularity in the conduct of the same which will in any way exculpate the accused. If a police operation has to be conducted immediately, time is of the essence and only hasty preparations are sometimes possible. We also have to take into account the lack of sophistication, the sketchy training, the inferior education, not to mention the absence of any I.Q. or psychological ratings, and the generally depressing atmosphere in the average police station which prevent them from apprehending criminals in a textbook or blue ribbon manner. What is important is whether the speed of preparation compromised the rights of the accused. The appellant has not satisfactorily shown how the speed of preparations endangered his rights.

The second circumstance refers to the use of detention prisoners as witnesses. The records show that this procedure was resorted to because the prisoners were the ones who knew the appellant and his drug-trafficking activities.

There is nothing in the records which show that these police officers were actuated by improper motives in apprehending the accused-appellant. We are constrained to fall back on the principle, sustained not only by logic but also the experience of our courts in countless cases that police officers are presumed to have regularly performed their duties in the absence of evidence showing the contrary (*People v. Santiago*, G.R. No. 94472, March 3, 1992 citing *People v. Mariano*, 191 SCRA 136 [1990]; *People v. Catan*, G.R. No. 92928, January 21, 1992).

The determination of the credibility of these law enforcement agents is addressed to the sound discretion of the trial court (*People v. Escabarte*, 158 SCRA 602 [1988]). As it is, the trial court found the testimonies of said prosecution witnesses credible. Again, we find no cogent reason to depart from the consistent rule that the findings of the trial court on the credibility of witnesses are given weight and are entitled to the highest degree of respect by the appellate courts (*People v. Castillo*, G.R. No. 93408, April 10, 1992).

We reiterate the ruling in *People v. Baluyot* (170 SCRA 569 [1989]):

"It is an entrenched rule founded on the fact that the matter of assigning value to declarations at the witness stand is best and most competently performed by the trial judge, who, unlike appellate magistrates, can weigh such testimony in the light of the declarant's demeanor, conduct and attitude at the trial and is thereby placed in a more competent position to discriminate between the true and false."

The accused-appellant contends that he was the victim of a frame-up.

The evidence presented by the prosecution is both substantial and convincing. Both the testimonial and physical evidence militate against the appellant's innocence. Stronger proof is needed to overcome the findings of the trial court that the prosecution witnesses are telling the truth. The standard defense of the accused in drug-related cases is frame-up or fabricated evidence. There is certainly a possibility in some cases. State prosecutors and judges alike are, therefore, enjoined to give this defense, extreme regard and concern. But when the case is in the appellate level, we are bound by the records and the impressions of the Judge. The appellant has to point to specific parts of the records or the law. We cannot, as in this case, sustain a bare-faced assertion of frame-up or planted evidence.

Anent Edgar Geronico's recanted testimony, the same is not well-taken by this Court being a testimony which appears unreliable. No explanation was offered by Geronico as to the sudden renunciation of his earlier testimony in court. His recantation is apparently prompted by his arrest a month after the buy-bust operation.

The case of *People v. Aldeguer* (184 SCRA 1 [1990]) states:

"Retractions are exceedingly unreliable (*People v. Domenden*, G.R. No. L-17822, October 30, 1962, 6 SCRA 343). The Court has looked with disfavor upon retractions of testimonies made before the court (*Reano v. CA*, G.R. No. 80992, September 21, 1988) xxx. Hence, as between the testimonies of a defense witness x x x and (a) prosecution witness xxx, the Court finds the latter to be more credible."

What is important in a prosecution for illegal sale of marijuana is that the prosecution proves that the sale transpired and the marijuana is presented in court as evidence. This is clearly shown in this case by the testimonies and the evidence presented in court.

The prosecution witnesses' positive identification of the accused-appellant further tilts the balance against the latter because greater weight is generally accorded to positive testimonies of prosecution witnesses than an accused's denials.

Premises considered, we affirm the decision of the trial court that the accused is guilty beyond reasonable doubt of the crime charged. However, the penalty of reclusion perpetua as imposed by the trial court is improper. The penalty provided for the offense of violation of Section 4, Article II of Republic Act No. 6425, as amended, is life imprisonment to death and a fine ranging from P20,000.00 to P30,000.00. This penalty of reclusion perpetua, a penalty provided for in appropriate cases under the Revised Penal Code and which carries accessory penalties, is completely different from life imprisonment (*People v. Pascual*, G.R. No. 88282, May 6, 1992 citing *People v. Baguio*, 196 SCRA 459 [1991]).

WHEREFORE, the judgment appealed from is AFFIRMED except for the MODIFICATION which changes the penalty of reclusion perpetua to life imprisonment.

SO ORDERED.

Feliciano, Bidin, Davide, Jr., and Romero, JJ., concur.

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